

CODE OF ORDINANCES
OF THE
CITY OF
MONTEZUMA, IOWA

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CODE OF ORDINANCES
CITY OF MONTEZUMA, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Montezuma, 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 Montezuma, Iowa.
3. "Clerk" means the city clerk of Montezuma, 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 Montezuma, Iowa.
6. "Council" means the city council of Montezuma, Iowa.
7. "County" means Poweshiek 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means the ordinances of the City of Montezuma, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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.

E.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. †

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

[The next page is 9]

† **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3.

CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Pursuant to an election held on November 3, 1981, the terms of the Mayor and Council members were changed to four years.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.22[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 but not later than noon of the first day that is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

2. Prescribed Oath. The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Montezuma 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 of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and
- B. The amount necessary to make all required transfers to restricted accounts for the succeeding three months.

(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 each year at such time as directed by the Council.
4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for

the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

A. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.

B. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

(1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection.

C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.

D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.

E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.

5. 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.

6. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.2[384, 388])
2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.3[384, 388])
3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.
(IAC, 545-2.4[384, 388])
4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.
(IAC, 545-2.4[384, 388])

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

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

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.
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 years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

(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, 75 percent.
2. For the second year, 60 percent.
3. For the third year, 45 percent.
4. For the fourth year, 30 percent.
5. For the fifth year, 15 percent.

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 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)

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CHAPTER 9
URBAN RENEWAL

EDITOR'S NOTE		
<p>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.</p>		
ORDINANCE NO.	ADOPTED	NAME OF AREA
3-75	August 1, 1994	Montezuma Urban Renewal Area
3-76	May 4, 1998	1998 Addition to Montezuma Urban Renewal Area

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CHAPTER 10
URBAN REVITALIZATION

EDITOR'S NOTE

Ordinance No. 3-72, adopted March 18, 1991, designated the Montezuma Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Library Board of Trustees
3. Water Utility Board of Trustees
4. Electric Utility Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is \$2,350.00 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 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 \$100,000.00 on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
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 and/or City Administrator
2. City Attorney
3. Fire Chief

17.06 COMPENSATION. The salary of each Council member is \$40.00 for each meeting of the Council attended, payable annually.

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation	18.08 Records
18.02 Powers and Duties: General	18.09 Attendance at Meetings
18.03 Publication of Minutes	18.10 Licenses and Permits
18.04 Recording Measures	18.11 Notification of Appointments
18.05 Other Publications	18.12 Elections
18.06 Authentication	18.13 City Seal
18.07 Certification	

18.01 APPOINTMENT AND COMPENSATION. The City Administrator is ex officio City Clerk and has the duties, powers, and functions prescribed in this chapter, by State law, and other ordinances of the City.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[3 & 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 LICENSES AND PERMITS. The Clerk shall issue or revoke licenses and permits when authorized by this Code of Ordinances, and keep a record of licenses and permits issued which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

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

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

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

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 21

CITY CLERK/ADMINISTRATOR

21.01 Appointment and Term

21.02 Compensation

21.03 Administrative Responsibility

21.04 Duties

21.01 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Clerk/Administrator to serve at the discretion of the Council.

21.02 COMPENSATION. The City Clerk/Administrator shall receive such annual salary as the Council shall determine by resolution.

21.03 ADMINISTRATIVE RESPONSIBILITY. The City Clerk/Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Clerk/Administrator and all Council involvement in administration initiated by the Council must be coordinated through the City Clerk/Administrator.

21.04 DUTIES. The duties of the City Clerk/Administrator are as follows:

1. Administer all ordinances, resolutions, Council policies and directives.
2. Attend all meeting of the Council unless excused by a majority of the Council.
3. Recommend to the Council such measures as deemed necessary or expedient for the good government and welfare of the City.
4. Have the general supervision and direction of the administration of the City government and to appoint with approval of the Council such administrative assistants as shall be deemed advisable.
5. Assist the Mayor in any of the Mayor's duties as requested by the Mayor and as approved by the Council.
6. Assist the Council with the municipal boards and commissions by making recommendations to the boards and commissions about planning, activities and the execution of its policies and programs as agreed on.
7. Cooperate with any administrative agency and make recommendations to the Council for joint or cooperative activities with said agencies.
8. Investigate, summarily and without notice, any affairs and conduct of any department, agency, officer or employee under the supervision of the City Administrator.
9. Provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City and State law.
10. Keep the Council fully advised of the financial and other conditions of the City and of its future needs.
11. Conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.

12. Act for the City in the exercise and execution of all policies and programs whereby the City is involved on a joint basis with any other governmental subdivision, including any subdivision of government of the State or the United States of America.
13. Perform other duties at the Council's direction.

CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

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

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

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

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

1. Term of Office. All appointments to the Board shall be for six 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 Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

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

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure to Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material

or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 23

WATER UTILITY BOARD OF TRUSTEES

23.01 Purpose	23.06 Powers and Duties of the Board
23.02 Board Established	23.07 Control of Funds
23.03 Appointment of Trustees	23.08 Accounting
23.04 Compensation	23.09 Discriminatory Rates Illegal
23.05 Vacancies	23.10 Discontinuance of Board

23.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned water utility by a board of trustees.

23.02 BOARD ESTABLISHED. Pursuant to Chapter 388 of the *Code of Iowa*, the management and control of the municipally owned Water Utility were placed in the hands of a Board of Trustees.

(Code of Iowa, Sec. 388.2)

23.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five persons to serve as trustees for staggered six-year terms. No public officer or salaried employee of the City may serve on the utility board.

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

23.06 POWERS AND DUTIES OF THE BOARD. The Board of Trustees may exercise all powers of the City in relation to the Water Utility, with the following exceptions:

(Code of Iowa, Sec. 388.4)

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

Code of Iowa, Sec. 388.4[1])

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

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

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

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

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general

circulation in the City a condensed statement of proceedings including a list of all claims.

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

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

(Code of Iowa, Sec. 388.5)

23.08 ACCOUNTING. Utility moneys are held in a separate water utility fund.

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.6)

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

(Code of Iowa, Sec. 388.2)

CHAPTER 24

ELECTRIC UTILITY BOARD OF TRUSTEES

24.01 Purpose

24.02 Board Established

24.03 Appointment of Trustees

24.04 Compensation

24.05 Vacancies

24.06 Powers and Duties of the Board

24.07 Control of Funds

24.08 Accounting

24.09 Discriminatory Rates Illegal

24.10 Discontinuance of Board

24.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned electric utility by a board of trustees.

24.02 BOARD ESTABLISHED. Pursuant to Chapter 388 of the *Code of Iowa*, the management and control of the municipally owned Electric Utility were placed in the hands of a Board of Trustees.

(Code of Iowa, Sec. 388.2)

24.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five persons to serve as trustees for staggered six-year terms. No public officer or salaried employee of the City may serve on the utility board.

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

24.06 POWERS AND DUTIES OF THE BOARD. The Board of Trustees may exercise all powers of the City in relation to the Electric Utility, with the following exceptions:

(Code of Iowa, Sec. 388.4)

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

Code of Iowa, Sec. 388.4[1])

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

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

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

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

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general

circulation in the City a condensed statement of proceedings including a list of all claims.

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

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

(Code of Iowa, Sec. 388.5)

24.08 ACCOUNTING. Utility moneys are held in a separate electric utility fund.

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.6)

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

(Code of Iowa, Sec. 388.2)

CHAPTER 25

HISTORIC PRESERVATION COMMISSION

25.01 Purpose and Intent

25.02 Definitions

25.03 Structure of the Commission

25.04 Powers of the Commission

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

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement and perpetuation of sites and districts of historical and cultural significance;
2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;
3. Stabilize and improve property values;
4. Foster pride in the legacy of beauty and achievements of the past;
5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;
6. Strengthen the economy of the City;
7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

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

1. "Commission" means the Montezuma Historic Preservation Commission, as established by this chapter.
2. "Historic district" means an area which contains a significant portion of sites including archaeological sites, buildings, structures, objects and/or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:
 - A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - B. Is associated with events that have made significant contributions to the broad patterns of our local, State or national history; or
 - C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or
 - D. Is associated with the lives of persons significant in our past; or
 - E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. “Historic site” means a site including archaeological sites, object, structure or building which:
 - A. Is associated with events that have made a significant contribution to the broad patterns of our history; or
 - B. Is associated with the lives of persons significant in our past; or
 - C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - D. Has yielded, or may be likely to yield, information important in prehistory or history.

25.03 STRUCTURE OF COMMISSION.

1. The Commission shall consist of not less than five members and not more than 11 members, who are residents of the City, and shall at all times have an odd number of members.
2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general or real estate.
3. The original appointment of the members of the Commission shall be two members appointed for two-year terms and three members appointed for three-year terms. The terms shall run from January through December.
4. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.
5. Members may serve for more than one term and each member shall serve until the appointment of a successor.
6. Vacancies shall be filled by the City according to the original selection as aforesaid.
7. Members shall serve without compensation.
8. A simple majority of the Commission shall constitute a quorum for the transaction of business.
9. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission’s proceedings.
10. The Commission shall meet at least three times a year.

25.04 POWERS OF THE COMMISSION.

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

2. The Commission may make a recommendation to the State Historic Preservation Office for the listing of an historic district or landmark in the National Register of Historic Places and may conduct a public hearing thereon.
3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic landmarks and historic districts if they qualify as defined herein.
4. Provide information for the purpose of historic preservation to the governing body.
5. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.
6. In addition to those duties and powers specified above, the Commission may, with Council approval:
 - A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.
 - B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties.
 - C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission.
 - D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.
 - E. Contract, with approval of the governing body, with State or federal government or other organizations.
 - F. Cooperate with federal, State and local governments in the pursuance of the objectives of historic preservation.

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

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

(Code of Iowa, 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

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

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

35.06 FIRE CHIEF APPOINTED. The Council shall appoint the Fire Chief for a term of two years or to fill a vacancy. The Council shall be furnished the department's attendance records for drills, meetings and fires, and shall give due consideration to such records in approving the appointment of a Fire Chief. The Council may remove the Fire Chief by written order setting out the reasons for removal; the order shall be filed with the City Clerk.

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

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

35.16 AMBULANCE FEES. Ambulance service shall be furnished at the following rates: \$600.00 base charge plus \$14.50 per loaded mile. All ambulance fees and charges are due upon presentation of a statement for said fees and charges and are payable to the Clerk. Actions for collection of fees and charges shall be brought in the name of the City.

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.
4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Poweshiek County Sheriff of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The Poweshiek County Sheriff shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Poweshiek County Sheriff, who 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 38

VOLUNTARY OR MANDATORY EVACUATION

38.01 Declaration of Policy

38.02 Definitions

38.03 Guidelines and Procedures for Evacuation

38.04 Refusal of Local Residents to Abide by the
Declaration of Mandatory Evacuation

38.05 Curfew

38.06 Evacuation of Pets/Livestock

38.07 Penalty

38.01 DECLARATION OF POLICY. It is the declared policy of the City to protect the lives and properties of its residents at all times and to mitigate the effects of human-induced and natural disasters within the area of responsibility.

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

1. “Comprehensive emergency plan” means documents which describe the actions to be taken to lessen the effects of, prepare for, respond to, and recover from a disaster by County and City governments, quasi-government agencies, and private organizations which have emergency operations responsibility. The plan is multi-hazard in scope and provides for a coordinated effort. It references authority, assigns functional responsibilities, provides for direction and control, and effective use of resources.
2. “Disaster” means human-caused, technological or natural occurrences, such as fire, flood, drought, earthquake, tornado, windstorm, hazardous substance or nuclear power plant accident or incident, which threaten the public peace, health and safety of the people or which damage or destroy public and private property. The term includes terrorism, enemy attack, sabotage, or other hostile action from without the State.
3. “Disaster mitigation” means the lessening or limitation of the adverse impacts of emergencies and related disasters, whether it be life or property, through proactive measures and planning taken before an emergency or disaster occurs. Examples include protective structures, public education, building codes, research, risk mapping, preparedness efforts, warning measures, statutes, and ordinances.
4. “Emergency” means a situation that posed an immediate risk to health, life, property, or environment.
5. “Emergency management” means lessening the effects of, preparations for, operations during, and recovery from natural, technological or human caused disasters. These actions are broad in scope and include, but are not limited to, disaster plans, mitigation, preparedness, response, warning, emergency operations, training, exercising, research, rehabilitation, and recovery activities.
6. “Evacuation” means an operation whereby all or part of a particular population is temporarily relocated, whether individually or in an organized manner, from an area in which a disaster or emergency has been declared and is considered dangerous for the health and safety of the public. For this purposes of this chapter there are two types of evacuation:

A. “Mandatory” means a situation where emergency management officials put maximum emphasis on encouraging evacuation and limiting ingress and controlling egress to potentially affected areas. Mandatory evacuation is employed by the authorities as a protective action to help save lives in certain emergencies.

B. “Voluntary” means a situation where people choose to move forward from a perceived area of danger to an area of safety either on their own or under the direction of the government. No penalty is issued for failing to follow a voluntary evacuation.

7. “Local Emergency Management Agency” means a countywide joint county-municipal public safety agency organized to administer Iowa Code 605, Chapter 7 (29C) under the authority of a commission.

8. “Local Emergency Management Commission” means the governing authority of emergency management and disaster mitigation within Poweshiek County. The Commission consists of the Mayor of each City, a representative of the County Board of Supervisors, and the sheriff or their appointed designee. The Commission shall appoint an Emergency Management Coordinator who is responsible for the development and maintenance of the comprehensive emergency plan, mitigation practices, and provide technical assistance and coordination to the governing officials of the political subdivisions comprising the commission. The Commission is a municipality as defined in Section 670.1.

9. “Public danger” means a situation in which harm, death, damage, or destruction is possible to the lives and property of the general populace.

38.03 GUIDELINES AND PROCEDURES FOR EVACUATION. Upon the determination that an emergency or disaster exists, the Mayor or Mayor Pro-Tem based on the recommendation from the Emergency Management Agency shall declare an emergency or disaster proclamation and based on an assessment of the incident, recommendations from Incident Command and Emergency Management, immediately execute the implementation of this chapter to begin the evacuation process.

The incident commander in conjunction with Emergency Management and City officials will immediately assign responsibility and coordinate the following resources:

1. Law Enforcement. Law enforcement shall enforce the implementation of evacuation orders and secure the safety of the evacuees. Other duties as assigned.
2. Emergency Management. Emergency management shall guide the evacuees to the designated shelters and evacuation centers, and coordinate the evacuation of pets/livestock. Disseminate broadly within the impacted area the evacuation message. Provide for resource coordination, may act as the PIO. Other duties as assigned.
3. Public Health. Public health shall assist with shelter staffing and support along with providing medical needs and assistance with special needs populations within the impacted area. Other duties as assigned.
4. Public Works. Public works shall be responsible for providing roadblocks, barricades, signate, and other devices to cordon off the impacted area, and assist in facilitating evacuation routes. Other duties as assigned.
5. Fire and EMS. Fire and EMS shall be tasked with response to the incident and facilitate the evacuation of people. Other duties as assigned.

6. Non-Essential Workers. Non-essential workers shall be responsible for assisting in shelter and evacuation center staffing. Other duties as assigned.

38.04 REFUSAL OF LOCAL RESIDENTS TO ABIDE BY THE DECLARATION OF MANDATORY EVACUATION. In the event that local residents refuse to leave their homes, the municipal government may use the following steps and within reason and commensurate under the circumstances, to evacuate them from the area.

1. Second Warning. Individuals refusing to evacuate on the initial warning will receive a second warning typically in the form of a site visit from a person of authority providing a high emphasis on the need to evacuate.
2. Utility Disconnection. Individuals refusing to evacuate on the second warning will have their utility services disconnected, or secured, making the conditions to stay unappealing. Often utilities will be disconnected as a result of the emergency or disaster and will require the utilities to be secured to prevent further incidents. Utilities may include electricity, gas services, water and sewer services, telephone, internet, cable, or satellite television.
3. Final Warning. Individuals refusing to evacuate after the utility disconnection will be provided with a final warning typically in the form of a site visit from a person of authority and accompanied by a member of Public Health, Department of Human Services, Mental Health Provider, or other similar agency providing a high emphasis on the need to evacuate.
4. No Response Notice. Individuals refusing to evacuate after final warning and at the direction of Public Health, Department of Human Services, or a mental health provider, will receive written notice informing the individual that rescue personnel will not respond in the face of undue and unnecessary danger after multiple attempts were made to initiate evacuation and that any call for rescuing will be subject to prioritization of available resources. Next of kin will be notified. The individual must sign the statement and it shall be witnessed and all warning notices shall be documented.

38.05 CURFEW. A curfew may be implemented within the impacted area by City officials as part of a short or long term evacuation plan. Curfew will only be established once limited re-entry activity has begun. The purpose of curfew is to provide a level of safety and security to an area where hazards may still be present.

38.06 EVACUATION OF PETS/LIVESTOCK. Pets and livestock shall have separate evacuation centers or area as determined by City officials or Emergency Management personnel.

38.07 PENALTY. Person violating any of the pertinent provisions of this ordinance shall be subject to a fine of not exceeding \$500.00.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct
40.04 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

40.03

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

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

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

1. Definitions.

A. Consumer-Fireworks (American Pyrotechnics Association (APA) Standard 87-1, Chapter 3). Any device, other than a novelty or theatrical pyrotechnic article, intended to produce visible and/or audible effects by combustion, deflagration, or detonation. Fireworks are further described as Fireworks UN0336 (formerly Common Fireworks and now referred to in this Standard as Consumer Fireworks,) or Fireworks UN0335 (formerly Special Fireworks and now referred to in this Standard as Display Fireworks.) Fireworks may also be described as Fireworks UN0337 if examination and testing in accordance with Title 49 CFR, § 173.56 is performed that warrants that classification. For purposes of this section, the term “fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term “fireworks” does not include gold-star producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

B. Novelty Fireworks (American Pyrotechnics Association (APA) Standard 87-1). A device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects. These items must be approved by DOT, and are normally classed as 1.4G. A different classification may be assigned based on testing and examination as specified in Title 49 CFR §CFR, § 173.56. Certain novelties which meet the criteria specified in Section 3.2 are not regulated as explosives, and approval by DOT is not required for those specific items. Novelty fireworks typically produce a much weaker explosion and sound. A few examples include:

- (1) Party Poppers — once a string is pulled to activate the charge, confetti is thrust into the air and produces a report.
- (2) Snaps — a small paper bag typically filled with gravel and a few milligrams of silver fulminate will produce a report when thrown at a hard surface or stepped on.

(3) Flying Lanterns (Sky Lantern) — these paper lanterns float into the sky when lit. They emit a slight glow and are very commonly used at weddings and celebrations.

(4) Paper Tanks and Vehicles — when lit, these small paper vehicles emit sparks that cause them to move around on the ground and commonly produce a loud bang at the end.

(5) Ground Bloom Flowers — a small cylinder that spins on the ground and changes color, spinning in such a way that it resembles a flower. Could be described as a large Jumping Jack.

(6) Snakes (Black Snake) — a small compressed pellet that, when lit, expands into a long snake-like object.

C. Display or Theatrical Fireworks/Pyrotechnics (American Pyrotechnics Association (APA) Standard 87-1). Pyrotechnic devices for professional use in the entertainment industry similar to consumer fireworks in chemical composition and construction but not intended for consumer use. Such articles, meeting the lift and effect powder weight limits for similar consumer fireworks but not labeled as such and containing only chemicals listed in table 4.3-1 may be approved under the provisions of this Standard and classified as Articles, Pyrotechnic, 1.4G, UN0431. Note: Theatrical pyrotechnic devices may be classed by DOT as Articles, Pyrotechnic, 1.4S, UN0432 or as Articles, Pyrotechnic, 1.3G, UN0430 on the basis of examination and testing as specified in Title 49 CFR, § 173.56. Examples include aerial shell, salute, and all other fireworks that are not considered novelty or consumer.

2. Fireworks Sales General Requirements.

A. Prior to any person engaging in fireworks sales the following shall be provided to the City Clerk:

(1) Proof of valid permit issued from the State Fire Marshal.

(2) Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for the amounts required by Section 100.19(4)(b) of the *Code of Iowa*.

B. Any property, building, or premises, whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the Fire Chief prior to engaging in fireworks sales. The Fire Chief shall cause an annual inspection to occur meeting the requirements of the *National Fire Protection Code* 1124 (2006 edition), and any rules, regulations, requirements or the like promulgated by the State Fire Marshal pursuant to Section 100.19 of the *Code of Iowa*.

(1) An annual inspection fee of \$100.00 shall be charged by the City for any permanent structure or building where fireworks are sold. This is in addition to any City business license fee.

(2) An annual inspection fee of \$250.00 shall be charged for any temporary or non-brick and mortar building used to sell fireworks.

(3) The Fire Chief may cause for additional inspections with no additional fee, to ensure the seller remains in compliance with this section for the safety and well-being of any potential customers.

(4) All annual inspections must be arranged a minimum of two days before intended sales dates. Failure to schedule an inspection in that time frame is grounds for non-issuance of occupancy and business permits. The Fire Chief shall notify the State Fire Marshal of any noncompliance for revocation or suspension of sales permits if this occurs.

(5) Persons shall not construct any display or offer for sale any fireworks type on roadways including shoulders thereof, alleys, sidewalks, public property or in assembly or educational occupancies. (IFC 5601.2.2)

(6) Permits shall not be issued for the storage or sale of any fireworks at any place of habitation or within 100 feet thereof. (IFC 5601.2.1)

(7) The Fire Chief is authorized to limit the quantity permitted at any given location. Permit holders shall not keep or store amounts greater than that they are permitted for and only the type they are permitted for. (IFC 5601.2.3)

C. Fireworks sales shall only be conducted in accordance with dates and times designated by Section 100.19(4)(c) of the *Code of Iowa*.

(1) Approved fireworks sales meeting the requirements of this section shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.

(2) Approved fireworks sales meeting the requirements of this section shall be allowed from an approved temporary structure between June 13 and July 8.

(3) It is unlawful to sell fireworks without meeting the requirements specified in this section, or to sell fireworks outside of the dates specified.

3. Firework Sales Safety Requirements.

A. The City hereby adopts National Fire Protection Association (NFPA) Standard 1124 (2006 edition) as incorporated by reference in Section 100.19(4)(a) of the *Code of Iowa*. By so adopting NFPA Standard 1124, the following safety requirements shall be adopted for all locations where fireworks are sold:

(1) Not more than 100 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a commercial business with other mercantile products for sale.

(2) Not more than 500 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located inside a building where fireworks are the primary business.

(3) Not more than 1000 pounds of total aggregate weight of DOT 1.4 class fireworks shall be located in a temporary structure used primarily for fireworks sales.

(4) Any permanent structure used primarily for the purpose of fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building. Exception: Where a person owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet.

(5) Any temporary structure shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.

(6) Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold. Exception: Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business. Exception: Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not removed within the store premises.

(7) All electrical wiring shall meet NFPA 70 *National Electrical Code*. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.

(8) All fireworks sales locations of any type shall maintain 48-inch clear aisles between fireworks display shelves.

(9) Any location where fireworks are sold shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; exit signs in permanent structures shall be illuminated.

(10) Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

(11) All locations shall have a minimum of two 10-pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher. The Fire Chief may order additional fire extinguishers and determine their location/placement.

(12) All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are approved exit doors as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within eight seconds.

(13) No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.

(14) No more than one approved explosive magazine shall be located on site for short term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area, if approved. Conex containers are not permitted.

(15) Individual fireworks devices or opened fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.

(16) Vehicles shall not be allowed to park within 30 feet of any structure, providing for clear and open access for any Fire Department response.

B. No person shall sell a DOT 1.4 class firework to a person under the age of 18.

C. Fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

D. Fireworks shall not be sold out of a residence or any part or combination of a residence, including: sidewalk adjacent to the property, yard – including the right-of-way, garage, temporary structures on residential property or vehicles. The term residence shall include single, double and multi-family dwellings.

4. Fireworks Discharging General Requirements. It is the intention that citizens be allowed to enjoy the use of novelty and consumer fireworks. It is in the best interest of public safety that these restrictions are included to prevent or limit injuries and/or fires caused by fireworks and their use in and around individuals, large gatherings or events, structures and the environment.

A. No person under the age of 18 shall discharge a DOT 1.4 class fireworks without direct supervision by a parent or legal guardian.

B. A person shall only discharge a fireworks device on real property they own or on property where consent has been expressly given. Fireworks shall not be discharged within 500 feet of City-owned or public property.

C. Fireworks shall not be discharged by persons showing visible signs of, or who are determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a fireworks device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.

E. No person shall discharge a fireworks device outside the following dates and hours: The five calendar days preceding and the five calendar days following July 4, 9:00 a.m. until 9:00 p.m., and July 4 from 9:00 a.m. until 11:00 p.m. Discharge of fireworks will be permitted from 9:00 a.m. until 11:00 p.m. on any Friday and Saturday nights that fall within the days described above.

F. It is unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.

G. Sky lantern open flame devices are not permitted to be released within the City limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

H. No person shall discharge fireworks of any type - novelty, consumer or display - within areas set aside for special events, e.g., City Fourth of July event, with or without a permit, from the hours of 10:00 p.m. the night before the event and ending at 6:00 a.m. the morning following the event date.

I. Exception: Special limited display permits may be issued by the Fire Chief. Inspections, insurance, display/use types and hours of use will apply.

J. No person shall discharge or allow the use of fireworks to occur within 50 feet of an occupied structure in the City limits.

K. No person shall discharge or allow the use of fireworks, including novelty, consumer or display types, within the proximity of others, or in areas where large public gatherings are present.

L. No person shall discharge or allow the use, explosion or other discharge of fireworks in any commercial or industrial rated building zone within the City limits, without permission of the Fire Chief.

M. Proximity for definition of this section shall mean within 10 feet of another individual, building/structure, or vehicle, unless a further distance is specifically given.

N. Notwithstanding the above subsections, no person shall discharge a fireworks device at any time upon declaration from the Fire Chief or Sheriff that discharging a fireworks device is temporarily banned due to severe dry weather conditions that create heightened fire dangers. Any such declaration by the Fire Chief or Sheriff shall be published at least once in a newspaper calculated to bring such declaration to the notice of the residents of the City. Any declaration issued by the Fire Chief or Sheriff under this subsection shall take effect immediately upon its being published and shall be effective until rescinded by a declaration from the issuing chief indicating a termination of the ban.

5. Display Fireworks.

A. No person, firm, partnership, or corporation shall offer for sale, expose for sale, sell at retail, store, or use or explode any display fireworks.

B. Notwithstanding the above subsection, the City Council may, upon application in writing, grant a permit for the display of display fireworks by a City agency, fair association, amusement park and other organization or groups of individuals approved by City authorities when such display fireworks 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:

Personal Injury	\$250,000.00 per person
Property Damage.....	\$50,000.00
Total Exposure	\$1,000,000.00

6. **Applicability.** This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited by City or State law; 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.

7. The fine for violating any section of this ordinance shall be the following:

- A. First Offense.....\$250.00
- B. Second Offense\$300.00
- C. Third Offense\$400.00
- D. Fourth Offense and each subsequent offense thereafter will be \$500.00.

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section “drug paraphernalia” means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

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

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

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

41.16 ANHYDROUS AMMONIA. The purpose of this section is to promote safety and for the protection of the citizens of the City from exposure to anhydrous ammonia.

1. **Definitions.** The following words are defined for use in this section.

- A. “Container” means a box, tank, bottle, vessel or any hollow article or utensil serving as a receptacle for any substance, whether self-propelled or not, which is capable of storing, holding or transporting any gas, liquid or solid substance. A container connected to another container by any means shall be deemed to be two containers and not one.
- B. “Manufacturing” means to produce goods from mixing materials which create a change in the physical properties of the raw materials.
- C. “Transfer” means the act of removing a substance from one container and placing it in another by any means, whether the substance being removed is exposed to the air or not.

2. Prohibition. It is unlawful for any person within the corporate limits of the City to transfer anhydrous ammonia from one container to another or to store any container containing anhydrous ammonia in any place within 2,500 feet of any real estate now or hereafter owned by the Montezuma Community School District.

This section does not apply to any transfer of anhydrous ammonia used in manufacturing.

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

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

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

42.05 Fraud
42.06 Theft
42.07 Montezuma Water Reservoir
42.08 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 MONTEZUMA WATER RESERVOIR.

1. Use of Minnows Prohibited.

A. The word “minnows” means chubs, shiners, suckers, dace, stone rollers, mud-minnows, red-horse, blunt nose, flat head or other small fish commonly used for fish bait that have only one dorsal fin; the term also includes the small fish carp, gar, quillback and dog fish.

B. It is unlawful for any person to use as bait, or to have in his or her possession on the water or ground surrounding the water of the Montezuma water reservoir, with intent to use the same as bait, any minnows, as defined in this section.

C. The possession of minnows on the water or on the City’s property surrounding the water of the Montezuma Water Reservoir shall be prima facie evidence that the person having minnows in his or her possession intended to use them as bait in fishing in the reservoir.

D. It is unlawful for any person to dump or throw any minnows, whether the same are alive or dead, into the Montezuma Water Reservoir.

2. Swimming, Bathing and Wading Prohibited. Swimming, bathing and wading in the Montezuma Water Reservoir, which is located on Section One (1) Two (2) and Eleven (11) in Township 78 North Range 15 West of the 5th P.M. in Poweshiek County, Iowa, are prohibited.

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

1. Chapter 22 – Library

A. Section 22.10 – Injury to Books or Property

B. Section 22.11 – Theft of Library Property

2. Chapter 105 – Solid Waste Control and Recycling

A. Section 105.07 – Littering Prohibited

3. Chapter 135 – Street Use and Maintenance

A. Section 135.01 – Removal of Warning Devices

B. Section 135.02 – Obstructing or Defacing

C. Section 135.03 – Placing Debris On

- D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
- A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

D. “School” means a public or private school or that portion of a public or private school 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(50) and (51) of this Code of Ordinances.]*

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

(Code of Iowa, Sec. 123.47)

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

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

- F. "Responsible adult" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 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 12:00 midnight and 5:00 a.m. on Friday, Saturday, and holidays.
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 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 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age

possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Camping

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

(Code of Iowa, Sec. 364.12)

47.02 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 fire shall be built, except in a place designated for such purpose, 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 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

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CHAPTER 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.

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 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 Unused 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)**
5. Construction and Repair of Buildings **(See Chapter 155)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - A. Description of Nuisance. A description of what constitutes the nuisance.

† **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.

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

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

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CHAPTER 51

JUNK AND UNUSED VEHICLES

51.01 Definitions

51.02 Junk and Unused Vehicles Prohibited

51.03 Junk and Unused 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. “Unused vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.
 - F. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City and fully enclosed within a fence or a wall 10 feet in height.

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

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

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CHAPTER 52

WEEDS AND GRASS

52.01 Cutting or Destruction of Weeds and Grass

52.02 Action by City

52.01 CUTTING OR DESTRUCTION OF WEEDS AND GRASS. It is the duty of the owner of every lot or part of lot within the City to cause to be cut or otherwise destroyed all weeds, grass, and other vegetative growth reaching a height of six inches on said lot or part of lot and upon said part of the parking in the street or alley of the City abutting on said lot or part of lot.

52.02 ACTION BY CITY. If a property owner fails to cut, mow, and maintain all grass, weeds, trees, and brush or fails to cut and control noxious weeds upon the owner's property, a notice of the action of the Council to provide for cutting and mowing of lawns and lots shall be served on the property owner directing said property owner to cut or mow such lawns and lots within a specified time. The notice shall be served either personally or by mailing a notice to the owner by certified mail, return receipt requested, to the last known address of the owner. The notice will set forth the address of the property in question and will instruct the landowner that this notice constitutes notice for the balance of the summer and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given. Any property owner who violates the provisions of this chapter will be given one notice per summer and the City will be authorized to respond to additional violations without additional written notice being given. *If the City itself abates the nuisance, the property owner shall be charged \$100.00 per hour.*

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01	Definitions	55.11	Police Dogs and Support Service Dogs
55.02	Animal Control Administration	55.12	Unlawful Removal
55.03	Offenses	55.13	Entering Property
55.04	Pet Awards Prohibited	55.14	Agricultural Animals
55.05	Control by Owner	55.15	Animals at Large or Staked Out on Public Property
55.06	Rabies Vaccination	55.16	Livestock Neglect
55.07	Rabies-Suspected Animals	55.17	Penalty
55.08	Vicious Animals	55.18	Tampering With A Rabies Vaccination Tag
55.09	Animal Nuisance	55.19	Tampering With An Electronic Handling Device
55.10	Notice of Impoundment, Reclaiming, Disposal of Animals, and Fees		

55.01 DEFINITIONS. For the purpose of this chapter, the following words and phrases are defined:

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 any living creature, except human beings, and including (without limiting the generality) mammals, birds, reptiles, fish, amphibians, and invertebrates. The word “animal” means only mammals when referring specifically to the control of rabies-suspected animals.
3. “Animal Control Officer” means the duly appointed, qualified, or acting Animal Control Officer of the City or the City’s authorized representative.
4. “Animal shelter” means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

(Code of Iowa, Sec. 162.2)

5. “Animal wild by nature” means and includes any animal that, because of its dangerous physical features, or its great size, or its vicious nature, presents a clear and proven danger to human beings.

A. The following members of the Class *Aves*: Order *Falconiformes* (hawks, eagles, falcons, and vultures) which are not kept pursuant to Federal or State permit, and Order *Ratites* (ostriches, rheas, cassowaries, and emus); or birds native to the continental United States and Alaska and all birds covered under the Lacey Act and Migratory Bird Act.

B. The following members of the Class *Mammalia*: Order *Carnivora*, Family *Felidae* (ocelots, margays, tigers, lions, panthers, jaguars, leopards and cougars, bobcat, lynx, cheetah, serval), except commonly accepted domesticated cats; the Family *Canidae* (wolves, foxes, dingoes, coyotes, and jackals), except domesticated dogs; Family *Mustelidae* (weasels, martin, minks, and badgers); Family *Procyonidae* (raccoon); Family *Ursidae* (bears); Order *Chiroptera* (bats); Order *Edentata* (sloths, anteaters, and armadillos); Order *Marsupialia* (kangaroos and common opossums); Order *Proboscidea*

(elephants); Order *Primate* (monkeys, chimpanzees, and gorillas); Order *Rodentia* (beaver, muskrat, and porcupines); Order *Artiodactyla* (antelope, deer, bison, and camels); and Order *Perissodactyla* (horse-like animals); and any hybrid or cross-breed of any of the above listed animals.

C. Any species of animal which is venomous to human beings, whether its venom is transmitted by bite, sting, touch, or other means.

D. Any species of animal when kept, maintained, or harbored in such numbers or in such manner as to constitute the likelihood of danger to the animals themselves, to human beings, or to the property of human beings or other domestic animals.

E. Except as expressly provided in this chapter, the term “animal wild by nature” does not include nonpoisonous aquatic or amphibious animals, gerbils, hedgehogs, hamsters, guinea pigs, domestic mice, domestic rabbits, birds (except for those listed in this section), domestic rats, chinchillas, geckos, and iguanas.

6. “At large” means when:

A. An animal is not confined on the premises of its owner; or

B. A dog is not under leash, at heel, or under the immediate, direct control of the person having possession of the dog; or

C. A cat not in the physical control of its owner.

D. An animal is not restrained within a motor vehicle, housed in a veterinary hospital, or kennel.

7. “Business” means any enterprise relating to any of the following:

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

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

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

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

8. “Cat” means and includes any domestic cat.

9. “Commercial establishment” means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

(Code of Iowa, Sec. 717.B1)

10. “Confined on the premises” means that condition in which an animal is securely and physically confined and restrained on and within the premises of the owner by means of walls or fences, or by rope, chain, leash, or other device of such strength and size as to prevent such animal from leaving the premises and not permit it to stray onto the property of one other than the owner.

11. “Dog” means and includes any animal of the canine species.

12. “Domestic animal” means dogs and cats as well as horses, donkeys, mules, burros, cattle, sheep, goats, swine, rabbits, and fowl.

13. “Fair” means any of the following:
(*Code of Iowa, Sec. 717E.1*)
- A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
14. “Fowl” means any bird which has been domesticated and is commonly raised for food or egg production, including but not limited to chickens, ducks, geese, turkey, peafowl, pheasant, partridge, quail, and grouse.
15. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
16. “Hive” means a manmade home for bees which includes one or more boxes containing removable frames for rearing young bees, a queen excluder, one or more boxes with removable frames for honey storage, an inner cover, and a top cover, all of which are set on a hive stand.
17. “**Injury**” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
18. “Kennel” means a place or establishment other than a pound or animal shelter where a maximum of five dogs or cats (a maximum of three of which can be dogs) not owned by the proprietor are sheltered, fed, and watered in return for a consideration.
19. “**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*)
20. “Mammal” means any of the class *Mammalia* or any subclasses of all animals that nourish their young with milk secreted by mammary glands and have their skin more or less covered with hair.
21. “Nuisance” means any animal that habitually commits any one or a combination of the following acts:
- A. Scratches or digs into any flower bed, garden, tilled soil, vines, shrubbery, or small plants and in so doing injures the same.
 - B. Overturns any garbage can or other vessel for waste products or scatters the contents of same.
 - C. Chases any person or domestic animal, or injures or kills any domestic animal.
 - D. Barks, howls, brays, or makes any other loud or offensive noise common to its species or peculiar to itself, so as to disturb the inhabitants of the community.
 - E. Is at large.

22. “Owner” means any person, firm, association, or corporation having the care or maintenance of, keeping or harboring, or in possession and control of or custody of any dog, cat, animal, or domestic animal.

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

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

24. “Pigeon” or “dove” means any bird in the family *Columbidae* and includes any exotic dove (ringneck, white, diamond, fruit, cape, laceneck, etc.) and any fancy pigeon, racing pigeon, or common pigeon.

25. “Poultry” means any bird of the species *Gallus* or *Meleagris gallopavo* (domestic turkey), generally, any type of chicken.

26. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

(Code of Iowa, Sec. 162.2)

27. “Rabies-suspected animal” means any animal that has bitten a human being or that has been bitten by any animal suspected of having rabies.

28. “Releasing agency” means any municipal shelter, humane society organization, or any other agency or group that has an ongoing adoption program and/or rescues animals for placement, whether to the public or private.

29. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

(Code of Iowa, Sec. 162.2)

30. “Under leash” means and includes the condition of a dog being securely held, restrained, and confined by its owner, member of family, or agent by means of a strap, chain, rope, cord, or other device not exceeding 16 feet in length, and in such manner as to prevent the dog from attacking any person.

31. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.

(Code of Iowa, Sec. 717.B1)

32. “Vicious animal” means any animal that has:

A. Killed or inflicted bodily injury upon any person or domestic animal, requiring hospitalization, medical treatment at a medical facility, or rehabilitative treatment; or

B. Evidenced a propensity, tendency, or disposition to:

(1) Attack without provocation; or

- (2) Cause injury to, or otherwise endanger the safety of human beings or domestic animals; or
- C. Any dog of a breed known to have a propensity or disposition to be of a vicious nature;
- D. Any dog of a mixed breed which contains a strain of such breed knowing to have a propensity or disposition to be a vicious nature which is identifiable as such by a qualified veterinarian duly licensed in the State of Iowa.
- E. Any dog found to be vicious in any other jurisdiction.

55.02 ANIMAL CONTROL ADMINISTRATION.

1. The City may appoint City employees as Animal Control Officers specifically for enforcing the provisions of this chapter and referenced provisions of the *Code of Iowa*, or the City may contract with a public or private agency to provide animal control and/or impoundment services. If such a contract is entered into by the City, the City may designate by contract language those employees who are authorized to enforce the provisions of this chapter and referenced provisions of the *Code of Iowa* as Animal Control Officers. Animal control shall generally be carried out by the Sheriff's Department or City personnel.
2. The City may, at its discretion, maintain a pound that complies with State of Iowa requirements for an animal pound, for the purpose of temporarily housing animals impounded under this chapter. The City may also, at its discretion, contract for either animal control services, or pound services or both. If the City contracts for Animal Control Officer services, those officers shall have peace officer power for the limited duty of enforcing this chapter and referenced applicable sections of the *Code of Iowa*.

55.03 OFFENSES.

1. It is an offense under the terms of this chapter and punishable as a simple misdemeanor offense or a municipal infraction for any owner within the corporate limits of the City to:
 - A. Own, keep, possess, harbor, or allow to remain on premises under his control any dog or cat unless such dog or cat has a current vaccination against rabies as required in this chapter.
 - B. Fail to prevent any dog or cat owned, possessed, kept, or harbored by him from running or being at large, provided, however, that it shall be permissible for a dog to be led off the premises of its owner when under leash; and provided further, that it shall be permissible for a police dog not to be under leash while being utilized by a police officer in the performance of police duties and when accompanied by a police officer.
 - C. Deposit any live dog, cat, or other domestic animal along any private or public roadway or in any other private or public place with the intention of abandoning the animal, except the person may deliver such animal to the animal shelter facility.
 - D. Fail or refuse to deliver to the City employee acting as Animal Control Officer, upon demand, any vicious animal, animal that is a nuisance, rabies-

suspected animal, dog or cat found at large, or any animal the keeping or harboring of which is declared to be an offense.

E. Keep, possess, own, harbor, or exhibit any animal wild by nature except as an exhibition complying with all aspects of State and federal laws.

F. Fail or refuse to keep every female dog or cat “in heat” confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in such a manner that another dog or cat cannot come into contact with it.

G. Interfere or hinder City employee acting as Animal Control Officer from performing his duties.

H. Own or harbor any animal or fowl primarily or in part for the purpose of fighting, or any animal or fowl trained for such; or any person to place or attempt to place an animal or fowl in an enclosure or in any other place for the purpose of fighting or combat, or any person to promote, state, hold, manage, conduct, be umpire, judge, or spectator at any game, exhibition, contest, or fight in which an animal or fowl is used for the purpose of fighting, injuring, killing, maiming, or destroying any other animal or fowl.

I. Harbor, keep, or possess in any one household more than a combined total of five dogs and cats and ferrets, provided that no more than three of such animals shall be dogs. It is specifically provided that a household may keep or possess more dogs and/or cats than permitted by this paragraph so long as:

(1) Immediately prior to October 1, 2011, the household legally possessed more than a number of dogs and/or cats permitted by this paragraph; and

(2) The dogs and/or cats kept or possessed are the same animals that were kept or possessed pursuant to Subparagraph (1) of this paragraph.

(3) Kennels are prohibited in districts zoned residential. Kennels shall be allowed only in agricultural or commercial zoned areas and must comply with State rules and regulations.

J. Harbor, keep, or possess domestic honeybees.

K. Harbor, keep, or possess any animal that, while not confined on the premises of its owner, does bite, chase, or attack any person on bicycles, automobiles and other vehicles. Provided, this subsection shall not apply to any police dog while being utilized in the performance of police duties and accompanied by a police officer.

L. Harbor, keep, or possess any animal that is a nuisance, as defined in this section.

M. Harbor, keep, or possess any vicious animal, as defined in this section.

N. All pets must wear a collar with the owner's contact information.

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

55.04 PET AWARDS PROHIBITED.

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 which includes provisions unrelated to the ownership, care, or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.6 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.

(Code of Iowa, Ch. 717E)

55.05 CONTROL BY OWNER.

1. 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.
2. 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.
3. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over, or across any public sidewalk, street, alley, or private property other than the owner's. Said animal shall be considered at large.
4. No animal shall be allowed in any area of a City park, public sidewalk, street, alley, or private property other than the owner's unless it is attached to a leash having sufficient strength to retain the animal. In addition, the leash must be held by a person capable of restraining and controlling the animal. The owner or person supervising the animal shall pick up all animal wastes.

55.06 RABIES VACCINATION. Every owner of a dog or cat under this chapter shall obtain a rabies vaccination for such animal. Every owner must be able to show evidence of current vaccination, by certificate signed by a licensed veterinarian.

55.07 RABIES-SUSPECTED ANIMALS.

1. Any rabies-suspected animal shall be securely and separately confined for observation for a period of 10 days. The confinement and observation shall be at the City Animal Shelter or other designated facility. The owner must immediately

surrender the rabies-suspected animal to the City employee designated as the Animal Control Officer. Any person failing to surrender a rabies-suspected animal or any person removing the rabies-suspected animal from the City limits is guilty of a simple misdemeanor offense. If, upon examination by a veterinarian, the animal has no signs of rabies at the end of the impoundment period, it may be released to the owner or, in the case of the stray, it shall be disposed of in accordance with applicable laws. In either event, the veterinarian shall make a written report of the disposition of the animal to the City Animal Control Officer. At the end of the ten-day observation period, the Animal Control Officer shall notify any person bitten by a rabies-suspected animal whether such animal exhibited symptoms or indications of rabies. If, within the period of impoundment, the animal dies or exhibits symptoms or indications of rabies, it shall be examined by a veterinarian for clinical diagnosis and then properly euthanized by a veterinarian. The head of any rabies-suspected animal that dies shall be submitted to the State Health Department Laboratory for confirmation of diagnosis. In this event, the City Animal Control Officer shall immediately notify any person bitten of the diagnosis.

2. Any domestic dog, cat, or ferret which is not effectively immunized against rabies virus encephalitis and is exposed to rabies through a rabid animal shall be euthanized immediately by the veterinarian in charge, Animal Control Officer, or a designated agent in a manner which will preserve the head for analysis; or such non-immunized, rabies-suspected exposed dog, cat, or ferret shall be strictly quarantined and observed in a veterinary hospital for a period of not less than six months, and such animal shall be immunized against rabies at least 30 days prior to release. Expenses for quarantine and immunization shall be borne by the owner or other person responsible for the animal.

3. If the owner of a non-immunized animal bitten by a rabid animal is unwilling to euthanize the bitten animal, then at the expense of the owner, the animal shall be confined in isolation in a veterinary hospital for a period of not less than six months. The owner of any non-immunized domestic animal other than a dog, cat, or ferret which has been exposed to a rabid animal shall immediately report with such domestic animal to the City Animal Control Officer for instruction concerning the disposition of that animal. Any effectively immunized domestic animal which is exposed to a rabid animal shall be immediately re-immunized and restrained by leashing and/or confined on the premises of its owner or in a veterinary hospital for a period of 45 days.

55.08 VICIOUS ANIMALS. It shall be the duty of the City Animal Control Officer to investigate any proper claim that an animal is vicious within the meaning of this chapter. Should the investigating official determine that a vicious animal poses an immediate threat to the public health or safety, the Animal Control Officer shall also file and serve a uniform complaint citation for violation of the appropriate City Ordinance against any person for harboring a vicious animal or file a municipal infraction. If the court shall fail to find, upon a preponderance of the evidence presented in an evidentiary hearing, that the animal seized and impounded is a vicious animal, then the court shall order the Animal Control Officer to return the animal to its owner. If such animal is found by the court to be a vicious animal, the court may order the City Animal Control Officer to euthanize the animal.

55.09 ANIMAL NUISANCE.

1. It shall be the duty of the City Animal Control Officer to investigate any proper claim that an animal is a nuisance within the meaning of this chapter. Should the

investigating official determine that a nuisance exists and it is necessary to abate the nuisance or should the official have reason to believe a threat to public health or safety exists, the City Animal Control Officer shall file and serve a municipal infraction and request an order from the court that the animal be impounded. Following the filing of such complaint and an evidentiary hearing, if the court finds upon a preponderance of the evidence that a nuisance existed, the court may order the animal euthanized as in the case of a vicious animal. Following the filing of such municipal infraction and an evidentiary hearing, if the court finds upon a preponderance of the evidence that a nuisance existed, the court may order the animal euthanized as in the case of a vicious animal. In lieu of ordering the animal euthanized, the court may, at the request of the animal owner, require that the owner abate and prevent such nuisance and give a good and sufficient bond within three days, in an amount not greater than \$500.00, satisfactory for a period not exceeding one year. In this event, the court may order the return of such animal to the owner. However, during the pendency of such bond, upon a finding of the court that the nuisance has recurred, the court shall order the animal be impounded, euthanized, and the owner's bond to be forfeited. If the court shall find that no nuisance existed, the court shall order the animal be surrendered to the owner. The bond request amount can be increased by resolution of the City Council.

2. Nothing in this section shall be construed to permit the release from impoundment of any animal not properly licensed and vaccinated, or a threat to public health and safety.

3. It is lawful for an Animal Control Officer or peace officer to destroy, if necessary, any animal found at large which cannot be captured. It is lawful for any person to kill a dog when the dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person. The Animal Control Officer may utilize a dart gun to tranquilize any animal at large.

55.10 NOTICE OF IMPOUNDMENT, RECLAIMING, DISPOSAL OF ANIMALS, AND FEES.

1. Notice of Impoundment. The City Animal Control Officer is authorized to impound any animal that is in violation of this chapter or which may be donated to the Animal Shelter for disposition. When the owner of the animal is known, said owner shall be notified of the impoundment. Notice shall be attempted by telephone within a 48-hour period from the initiation of the impoundment.

2. Time for Reclaiming Animals. An animal may be reclaimed within the following times: within seven days from the initial impoundment, and the owner is readily identifiable, or seven days from notice of impoundment, whichever is longer. If the owner is not known, the animal shall be held for seven days before it becomes the property of the City, and is disposed of as provided herein.

3. Requirements for Reclaiming Animals. An animal may be reclaimed by meeting the following requirements:

A. Satisfying all other requirements of this section;

B. Paying the impoundment fees and expenses and satisfy all other requirements as set forth herein; and

C. If the animal must be vaccinated for rabies before release, the person reclaiming the animal shall pay all fees for the vaccination.

4. Fees. The impounding fees will be set by resolution of the City Council. In addition, an owner of any animal transported to the Poweshiek Animal League Shelter or its designee will be responsible for any costs incurred by the City. No animal shall be released without the payment of the fees and charges listed above and without satisfactory proof of ownership. The payment of these fees and charges shall not constitute a defense to any prosecution that may be instituted for the violations of the terms of this chapter. Provided, however, no fees shall be charged for any licensed animal surrendered to the owner on acquittal or dismissal of charges of keeping, possessing, owning, or harboring such animal as a nuisance or as a vicious animal. Provided, further, no person shall be entitled to reclaim any animal found to be a nuisance, rabid, rabies suspected or vicious.
5. Animals Not Reclaimed Within Time Limits. Animals not reclaimed within the time limits set forth in this section shall, at the option of the City Animal Control Officer, be euthanized or disposed of in one of the following manners:
 - A. Animals Reclaimed by Owners. Animals may be reclaimed by the owner upon payment of all fees and charges established by this section.
 - B. Animals Wild by Nature. All animals wild by nature shall be euthanized or donated to a zoo or a museum; except that, at the discretion of the City Animal Control Officer, certain animals wild by nature which are native to Iowa and their natural habitats do not present a danger to human beings or to property may be released to their natural habitats.
 - C. Release to Veterinarian. The City Animal Control Officer may, at his discretion, release animals to a licensed veterinarian if the animal is in need of veterinary care. The veterinarian must agree in writing to accept responsibility for the animal and give the animal proper veterinarian care in lieu of paying fees to receive the animal.
6. Fees for Treatment of Sick Animals. In addition to all other fees, the owner of a sick or injured animal impounded by the City Animal Control Officer shall reimburse the City of Montezuma or a veterinarian for any fees incurred in treating the animal before the animal will be released.
7. Destruction of Animals. The City Animal Control Officer may euthanize any animal if it has been surrendered to the shelter or if the animal is so sick, wounded, maimed, diseased, or injured that its cure is considered by the City Animal Control Officer to be impracticable or if death is imminent, and in either of such events, such destruction may be done immediately without notice or any waiting period. Anyone surrendering an animal shall provide proof of his or her identity before the animal will be accepted.

55.11 POLICE DOGS AND SUPPORT SERVICE DOGS. If the dog is vaccinated as herein provided, it is lawful for any dog trained to guide any blind or hearing-impaired person, or for any support service dog for people with disabilities, or for any police dog owned and used by law enforcement as a police dog to be admitted to any public place or vehicle when actually accompanying a blind or hearing-impaired person or person with a disability, or when utilized as a police dog, when the blind, hearing-impaired, or disabled person, or the officer accompanying the dog might have the lawful right to entry.

55.12 UNLAWFUL REMOVAL. Every person who shall take out or attempt to take out of the Animal Shelter or any designated Animal Shelter property any animals located therein

without paying the fees prescribed by this chapter shall be deemed guilty of a simple misdemeanor offense or may be prosecuted for a civil municipal infraction.

55.13 ENTERING PROPERTY. The City Animal Control Officer may impound animals that are deemed to be at large within the meaning of this chapter and which are found off the immediate premises of their owners. In multi-family residential complexes, if the property manager or agent grants access, at-large animals may be removed from common areas generally made accessible to occupants and their guests. This includes, but is not limited to playgrounds, parking lots, and walkways. The City Animal Control Officer may utilize a tranquilizer gun for the purpose of sedating the animal.

55.14 AGRICULTURAL ANIMALS. It is unlawful for any person to keep, maintain, or permit or suffer to be maintained any cows, goats, sheep, hogs, horses, poultry, rabbits, or any miniature or dwarf variety of agricultural animal upon any property or premises within the corporate limits of the City, except by written consent of the Council or except in compliance with the City's zoning regulations. The keeping of agricultural animals, including miniature or dwarf varieties, in violation of the terms of this section is hereby declared to be a nuisance against the public health of the City, and such nuisance shall be subject to abatement as provided by law.

55.15 ANIMALS AT LARGE OR STAKED OUT ON PUBLIC PROPERTY. It is unlawful for the owner or person in charge of any horse, mule, donkey, cattle, or swine of any kind to permit such animal to run at large or to be staked in any public place within the limits of the City without written permission of the City.

55.16 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.

55.17 PENALTY. Unless otherwise provided, every person violating any of the provisions of this chapter shall be guilty of a simple misdemeanor, or a municipal infraction violation.

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

(Code of Iowa, Sec. 351.45)

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

- C. A veterinarian.
- D. An animal shelter or pound.

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

(Code of Iowa, Sec. 351.46)

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

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

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

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a 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 peace officer.

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Street Superintendent 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 Street Superintendent shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The Street Superintendent 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 Street Superintendent 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
62.07 Engine Brakes and Compression Brakes

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

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

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container; drivers.
51. Section 321.284A – Open container; passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.

54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.306 – Roadways laned for traffic.
61. Section 321.307 – Following too closely.
62. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
63. Section 321.309 – Towing.
64. Section 321.310 – Towing four-wheel trailers.
65. Section 321.312 – Turning on curve or crest of grade.
66. Section 321.313 – Starting parked vehicle.
67. Section 321.314 – When signal required.
68. Section 321.315 – Signal continuous.
69. Section 321.316 – Stopping.
70. Section 321.317 – Signals by hand and arm or signal device.
71. Section 321.318 – Method of giving hand and arm signals.
72. Section 321.319 – Entering intersections from different highways.
73. Section 321.320 – Left turns; yielding.
74. Section 321.321 – Entering through highways.
75. Section 321.322 – Vehicles entering stop or yield intersection.
76. Section 321.323 – Moving vehicle backward on highway.
77. Section 321.323A – Approaching certain stationary vehicles.
78. Section 321.324 – Operation on approach of emergency vehicles.
79. Section 321.324A – Funeral processions.
80. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
81. Section 321.330 – Use of crosswalks.
82. Section 321.332 – White canes restricted to blind persons.
83. Section 321.333 – Duty of drivers approaching blind persons.
84. Section 321.340 – Driving through safety zone.
85. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
86. Section 321.342 – Stop at certain railroad crossings; posting warning.
87. Section 321.343 – Certain vehicles must stop.

88. Section 321.344 – Heavy equipment at crossing.
89. Section 321.344B – Immediate safety threat; penalty.
90. Section 321.354 – Stopping on traveled way.
91. Section 321.359 – Moving other vehicle.
92. Section 321.362 – Unattended motor vehicle.
93. Section 321.363 – Obstruction to driver’s view.
94. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully controlled-access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – School buses.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required.
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
110. Section 321.387 – Rear lamps.
111. Section 321.388 – Illuminating plates.
112. Section 321.389 – Reflector requirement.
113. Section 321.390 – Reflector requirements.
114. Section 321.392 – Clearance and identification lights.
115. Section 321.393 – Color and mounting.
116. Section 321.394 – Lamp or flag on projecting load.
117. Section 321.395 – Lamps on parked vehicles.
118. Section 321.398 – Lamps on other vehicles and equipment.
119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.

122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.408 – Back-up lamps.
125. Section 321.409 – Mandatory lighting equipment.
126. Section 321.415 – Required usage of lighting devices.
127. Section 321.417 – Single-beam road-lighting equipment.
128. Section 321.418 – Alternate road-lighting equipment.
129. Section 321.419 – Number of driving lamps required or permitted.
130. Section 321.420 – Number of lamps lighted.
131. Section 321.421 – Special restrictions on lamps.
132. Section 321.422 – Red light in front.
133. Section 321.423 – Flashing lights.
134. Section 321.430 – Brake, hitch, and control requirements.
135. Section 321.431 – Performance ability.
136. Section 321.432 – Horns and warning devices.
137. Section 321.433 – Sirens, whistles, and bells prohibited.
138. Section 321.434 – Bicycle sirens or whistles.
139. Section 321.436 – Mufflers, prevention of noise.
140. Section 321.437 – Mirrors.
141. Section 321.438 – Windshields and windows.
142. Section 321.439 – Windshield wipers.
143. Section 321.440 – Restrictions as to tire equipment.
144. Section 321.441 – Metal tires prohibited.
145. Section 321.442 – Projections on wheels.
146. Section 321.444 – Safety glass.
147. Section 321.445 – Safety belts and safety harnesses; use required.
148. Section 321.446 – Child restraint devices.
149. Section 321.449 – Motor carrier safety regulations.
150. Section 321.449A – Rail crew transport drivers.
151. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
152. Section 321.450 – Hazardous materials transportation.
153. Section 321.454 – Width of vehicles.
154. Section 321.455 – Projecting loads on passenger vehicles.
155. Section 321.456 – Height of vehicles; permits.

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

62.02 PLAY STREETS DESIGNATED. The peace officer 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.

62.07 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate, or for any person to cause to be used or operated, within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, except in response to an imminent traffic accident.
2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 20 MPH Speed Zones. A speed in excess of 20 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On East Irwin Street from Front Street to North Fourth Street.
 - B. On North Fourth Street from East Irwin Street to the north City limits.
2. Special 30 MPH Speed Zones. A speed in excess of 30 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Front Street from Irwin Street to Wood Street.
3. 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. On South Eighth Street from Clark Street to County Road V13.
 - B. On Forest Home Road from Highway 63 to the end of City jurisdiction.
4. Special 40 MPH Speed Zones. A speed in excess of 40 miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Front Street from Wood Street to Harrison Street.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

The peace officer 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])

- NONE -

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop

65.02 Stop Required

65.03 Four-Way Stop Intersections

65.04 Three-Way Stop Intersections

65.05 Yield Required

65.06 Stop Before Crossing Sidewalk

65.07 Stop When Traffic Is Obstructed

65.08 Yield to Pedestrians in Crosswalks

65.01 THROUGH STREETS - STOP. Every driver of a vehicle shall make a full and complete stop, unless a yield is permitted by this chapter, before entering an intersection with the following designated through streets.

(Code of Iowa, Sec. 321.345)

1. Front Street from the north corporate limits to the south corporate limits.
2. Main Street from Front Street to the east corporate limits.
3. Main Street from Front Street to the west corporate limits.
4. Third Street from Irwin Street to Main Street.
5. Third Street from Liberty Street to the south end of Third Street.
6. Fourth Street, from Liberty Street to Ogden Street.
7. Fourth Street, from Main Street to Irwin Street.
8. Eighth Street from Main Street to the south corporate limits.
9. Wood Street from Front Street to High Street.
10. Wood Street from Front Street to Eighth Street.
11. Jefferson Street from Fifth Street to Sixth Street.

65.02 STOP REQUIRED. Every driver of a vehicle shall make a full and complete stop in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. Tenth Street. Vehicles traveling on Tenth Street shall stop at Constance Street.
2. Fifth Street. Vehicles traveling on Fifth Street shall stop at Washington Street.
3. Washington Street. Vehicles traveling on Washington Street shall stop at High Street.
4. Washington Street. Vehicles traveling on Washington Street shall stop at Sixth Street.
5. Fifth Street. Vehicles traveling on Fifth Street shall stop at Liberty Street.
6. Washington Street. Vehicles traveling east on Washington Street shall stop at Mill Street.
7. North Grove Street. Vehicles traveling north on North Grove Street shall stop at West Madison Street.
8. Second Street. Vehicles traveling on Second Street shall stop at Dallas Street.

9. Second Street. Vehicles traveling on Second Street shall stop at Liberty Street.
10. Third Street. Vehicles traveling north and east on Third Street shall stop at Liberty Street.
11. Fourth Street. Vehicles traveling north and west on Fourth Street shall stop at Liberty Street.
12. Alley. Vehicles traveling east and west on the alley between Front Street and High Street shall stop where the alley intersects with Mill Street, ½ block south of West Main Street.
13. Second Street. Vehicles traveling on Second Street shall stop at Ogden Street.
14. Second Street. Vehicles traveling on Second Street shall stop at Clark Street.
15. Mill Street. Vehicles traveling north on Mill Street shall stop at Washington Street.
16. Mill Street. Vehicles traveling north on Mill Street shall stop at Jefferson Street.

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall make a full and complete stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of Jefferson Street and Third Street.
2. Intersection of Jefferson Street and Fourth Street.
3. Intersection of Fourth Street and Main Street.
4. Intersection of Third Street and Main Street.
5. Intersection of Second Street and Wood Street.
6. Intersection of Third Street and Wood Street.
7. Intersection of Fourth Street and Wood Street.
8. Intersection of Sixth Street and Wood Street.

65.04 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall make a full and complete stop before entering the following designated three-way stop intersections:

1. North Fourth Street and East Irwin Street. Vehicles approaching the intersection of North Fourth Street and East Irwin Street from the south, north and west shall stop before entering such intersection.
2. North Third Street and East Irwin Street. Vehicles approaching the intersection of North Third Street and East Irwin Street from the south, east and west shall stop before entering such intersection.

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

(Code of Iowa, Sec. 321.345)

– NONE –

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall make a full and complete stop 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)

65.07 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.

65.08 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

66.01 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 peace officer may, upon application and good cause being shown, 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)

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle except school buses 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. Ten ton limit on Liberty Street from Front Street to Eighth Street.
2. Ten ton limit on Dallas Street from Front Street to Eighth Street.
3. Ten ton limit on Wood Street from Front Street to Eighth Street.
4. Ten ton limit on Ogden Street from Front Street to Eighth Street.
5. Ten ton limit on Clark Street from Front Street to Eighth Street.
6. Ten ton limit on Harrison Street from Front Street to Third Street.
7. Ten ton limit on Second Street from Main Street to Harrison Street.
8. Ten ton limit on Third Street from Main Street to County Road V13.
9. Ten ton limit on Fourth Street from Main Street to Clark Street.
10. Ten ton limit on Fifth Street from Main Street to Clark Street.
11. Ten ton limit on Sixth Street from Main Street to Clark Street.
12. Ten ton limit on Seventh Street from Main Street to Liberty Street.
13. Ten ton limit on Eighth Street from Main Street to Cass Street.
14. Ten ton limit on Tenth Street from Main Street to Constance Street.
15. Ten ton limit on Eleventh Street from Main Street to Constance Street.

16. Ten ton limit on Twelfth Street from Main Street to Constance Street.
17. Ten ton limit on High Street from Main Street to Dallas Street.

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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)

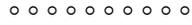
67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(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.



CHAPTER 68

ONE-WAY TRAFFIC

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

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

- NONE -

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.08 No Parking Zones
69.02 Parking on One-Way Streets	69.09 All Night Parking Prohibited
69.03 Angle Parking	69.10 Truck Parking Limited
69.04 Manner of Angle Parking	69.11 Parking Limited to Fifteen Minutes
69.05 Parking for Certain Purposes Illegal	69.12 Parking Limited to Two Hours
69.06 Parking Prohibited	69.13 Snow Removal
69.07 Persons with Disabilities Parking	

69.01 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

69.02 PARKING ON ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

69.03 ANGLE PARKING. Angle or diagonal parking is permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. South Fourth Street, on both sides, from Main Street to Liberty Street.
2. South Third Street, on both sides, from Main Street to Liberty Street.
3. East Main Street, on the south side, from Third Street to Fourth Street.
4. Liberty Street, on both sides, from Third Street to Fourth Street.
5. North Fourth Street, on the east side, from Main Street to Washington Street.
6. Jefferson Street, on the north side, from Third Street to Fourth Street.
7. North Third Street, on the east side, from Main Street to one-half block north.
8. Liberty Street, on the north side, from Second Street to one-half block east.
9. Jefferson Street, on the north side, from Fourth Street to one-half block west.
10. South Fourth Street, on the west side, from Liberty Street to one-half block south.

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

within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 24 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])

10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.

(Code of Iowa, Sec. 321.358[9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(Code of Iowa, Sec. 321.358[10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358[11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

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

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

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

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

- A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.
 - B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*.
 - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. **Wheelchair Parking Cones.** No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
 - B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

69.08 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

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

- 1. Jefferson Street, on the north side, from Fifth Street to Sixth Street.
- 2. Fourth Street, on both sides, from Irwin Street to the north City limits.
- 3. Irwin Street, on both sides, from Front Street to Fourth Street.
- 4. Third Street, on the east side, from Irwin Street to one-half block south.
- 5. Third Street, on both sides, from Liberty Street to one-half block south.
- 6. Liberty Street, on the north side, from Third Street to Front Street.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day.

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

- 1. Main Street, on both sides, from Front Street to Sixth Street.
- 2. Fourth Street, on both sides, from Main Street to Liberty Street.
- 3. Third Street, on both sides, from Main Street to Liberty Street.
- 4. Liberty Street, on both sides, from Third Street to Fourth Street.
- 5. North Fourth Street, on the west side, from Main Street to Washington Street.
- 6. Liberty Street, on the south side, from Third Street to one-half block west.

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

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

1. Streets. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any street within the City. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Noise. No such vehicle shall be left standing or parked upon any public or private parking lot, or drive of any service station, between the hours of 11:00 p.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.

69.11 PARKING LIMITED TO 15 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 15 minutes upon the following designated streets:

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

1. On the south side of East Main Street, east of North Fourth Street.

69.12 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 7:00 a.m. and 6:00 p.m., Monday through Saturday, upon the following designated streets:

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

1. On the north side of East Main between North Third Street and North Fourth Street.
2. On the east side of North Fourth Street, one-half block north of Main Street.
3. On the west side of North Third Street, from Liberty Street to Main Street.

69.13 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor or peace officer unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation throughout the duration of the snow or ice storm and the 48-hour period after cessation of such storm except as above provided upon streets which have been fully opened. Such a ban shall be of uniform application and the Mayor or peace officer is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and shall inform the news media to publicize the proclamation and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

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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 fine for each violation charged under a simple notice of a fine shall be in the amount of \$5.00 for all violations except snow route parking violations and improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for snow route parking violations is \$25.00 and the fine for improper use of a persons with disabilities parking permit is \$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	75.07 Location Restrictions for UTVs
75.02 Definitions	75.08 Registration Requirements
75.03 General Regulations	75.09 Negligence
75.04 Operation of Snowmobiles	75.10 Accident Reports
75.05 Operation of All-Terrain Vehicles	75.11 Penalties for Violation
75.06 Operation of UTVs	

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

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

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

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

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

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

3. “Off-road utility vehicle” 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75.05 OPERATION OF 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.”

6. **Direct Crossing.** An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

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

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

B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

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

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

E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City to a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City.

75.06 OPERATION OF UTVS. The operators of UTVs upon the streets of the City shall comply with the following restrictions:

1. UTVs may only be operated upon the streets of the City by persons who are 16 years of age or older and are possessing a valid Iowa operator's license, except as prohibited in this chapter.
2. While operated on a City street, the number of passengers permitted on vehicle shall not exceed the number of seats or the maximum number of intended passengers designed for the vehicle to carry.
3. If the UTV comes with a manufacturer equipped seat belt, the seat belt must be worn during operation.
4. Operators must observe all state and local traffic control regulations and devices.
5. While on City streets, operators must have on their person, in or attached to the vehicle, proof of required insurance.
6. UTV may be operated only during the hours of sunrise to sunset.
7. UTVs shall be equipped with operational tail lights and headlights.
8. UTVs shall be equipped with a slow-moving vehicle sign and a bicycle safety flag.
9. When operating a UTV as authorized by this chapter, the vehicle shall be equipped with a Montezuma City permit decal and current DNR registration sticker.
10. Vehicles shall not be operated at a speed in excess of the reasonable or proper speed for existing circumstances and the posted speed limit up to 35 miles per hour.
11. Owners and operators must obey all parking regulations in the City.

75.07 LOCATION RESTRICTIONS FOR UTVS. The operators of UTVs shall comply with the following restrictions as to where UTVs may be operated within the City:

1. Streets. If the operator and the vehicle comply with the provisions of this chapter, UTVs may be operated on all streets within the corporate limits of the City with the exception of the following areas:
 - A. Highway 63 through Montezuma City limits.
 - B. East Main Street/Hwy 85 within Montezuma City limits.
2. Trails. Vehicles shall no be operated on snowmobile trails except where designated.

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

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

4. Sidewalk or Parking. Vehicles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and sidewalk or property line commonly referred to as the “parking.”
5. Private Property. Vehicles may only be operated on private property with express consent of the owner.
6. Authorized Emergency Vehicle. UTVs may be used as an authorized emergency vehicle by a peace officer, or any fire or emergency services personnel in the line of duty. Any such user is excepted from compliance with the requirements of this chapter and may act in accordance with *Code of Iowa* Section 321.231.

75.08 REGISTRATION REQUIREMENTS. No person shall operate a UTV on any public street or alley, for any purpose except active agricultural farming operations, unless the operator possesses a City of Montezuma permit sticker, displays current vehicle registration and holds proof of liability insurance covering operation on City streets.

1. UTV owners must register their vehicle with the City of Montezuma annually through the City Clerks office to be eligible to operate on City streets. A permit shall not be issued until the owner/operator provides the following:
 - A. Evidence that the permittee is at least 16 years of age and possesses a valid State issued driver’s license.
 - B. Display current vehicle registration as required by the *Code of Iowa*, Sec 321I.3.
 - C. Proof of liability insurance.
2. Permit holders will be issued a sticker to affix to the left side rear fender of vehicle. The fee for such permit shall be \$30.00. Permits will be granted for on year 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.

75.09 NEGLIGENCE. The owner and operator of an ATV, UTV, or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV, UTV, or snowmobile. The owner of an ATV, UTV, or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV, UTV, 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)

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

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

75.11 PENALTIES FOR VIOLATION. Any person who violates this chapter is guilty of a simple misdemeanor and the standard penalty shall apply. Additionally, any person who violates this chapter shall have his/her permit revoked for the following periods of time:

1. First Offense – Loss of permit for six months.
2. Second Offense – Lost of permit for one year.
3. Third Offense – Permit permanently revoked.

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Riding on Sidewalks
76.02 Traffic Code Applies	76.09 Towing
76.03 Double Riding Restricted	76.10 Improper Riding
76.04 Two Abreast Limit	76.11 Parking
76.05 Speed	76.12 Equipment Requirements
76.06 Emerging from Alley or Driveway	76.13 Special Penalty
76.07 Carrying Articles	

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 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code of Iowa, Sec. 321.236[10])

76.06 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code of Iowa, Sec. 321.236[10])

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.

(Code of Iowa, Sec. 321.236[10])

76.08 RIDING ON SIDEWALKS. The following provisions apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the 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])

76.09 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.10 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding, or otherwise so as to disregard the safety of the operator or others.

76.11 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Code of Iowa, Sec. 321.236[10])

76.12 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 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 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake that will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Code of Iowa, Sec. 321.236[10])

76.13 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five days for the first offense, 10 days for a second offense and 30 days for a third offense.

CHAPTER 77

GOLF CARTS

77.01 Purpose
77.02 Operation of Golf Carts Permitted
77.03 Prohibited Streets

77.04 Equipment
77.05 Hours

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

77.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid driver's license, except as prohibited in Section 77.03 of this chapter.

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

77.04 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a slow moving vehicle sign and a bicycle safety flag at all times during operation and shall be equipped with adequate brakes.

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

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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 Reclamation of Abandoned Vehicles

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 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 10 days. However, a police authority may declare the vehicle abandoned within the 10-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.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
 - A. A description of the year, make, model, and vehicle identification number of the vehicle.
 - B. The location of the facility where the vehicle is being held.
 - C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property 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 required pursuant to this section.
 - D. A statement that 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.
 - E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
3. 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, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
4. 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 personal 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.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-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.

6. 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 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities 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 Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

(Code of Iowa, Sec. 321.89[3])

80.04 RECLAMATION OF ABANDONED VEHICLES. Prior to driving an abandoned vehicle away from the premises, a person who received or who is reclaiming the vehicle on behalf of a person who received notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in Section 321.20B of the *Code of Iowa*.

(Code of Iowa, Sec. 321.89[3a])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 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 90

WATER SERVICE SYSTEM

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90.01 BOARD OF TRUSTEES. The management of the City's Water Utility is the responsibility of the Water Utility Board of Trustees established and operated as described in Chapter 23 of this Code of Ordinances.

90.02 APPLICATION REQUIRED. The property owner of his agent, hereinafter called customer, must make written application for water service at the Secretary's office of the municipality, and said application including service received thereunder is unassignable by the customer.

90.03 TAPPING MAINS. All taps and connections to the mains of the municipality shall be made by and under the direction and supervision of waterworks personnel and constructed in accordance with the provisions of this resolution.

90.04 RESPONSIBILITY FOR WATER SERVICE PIPE. The municipality shall install and maintain at its expense that portion of the service from the main to the lot or easement line, including the necessary tap, fillings, and shut-off valve, and the customer shall install and maintain at its expense that portion of the service from said lot or easement line to his premises, including a stop and waste cock at the end of the house side of their service. The minimum earth cover of the customer's service shall be five feet. The municipality shall determine the size and kind of service to be installed.

90.05 SERVICE DISCONTINUED.

1. Application may be cancelled or water service discontinued by the municipality for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

- A. Misrepresentation in the application as to the property of fixtures to be supplied or use to be made of water.
- B. Failure to report to the municipality addition to the property or fixtures to the supplies or additional use to be made of water.
- C. Resale or giving away of water.

- D. Waste or misuse of water due to improper or imperfect service pipe or fixtures, or failure to keep same in suitable state or repair.
 - E. Tampering with meter, meter seal, service, or valves, or permitting such tampering by others.
 - F. Connection, cross-connection, or permitting same, of any separate water supply to premises which receive water from the municipality.
 - G. Non-payment of bills.
2. Any customer desiring to discontinue the water service to his premises for any reason must give notice of discontinuance in writing at the business office of the waterworks system, otherwise the customer shall remain liable for all water used and service rendered by the municipality until said notice is received by the municipality.

90.06 BILLING FOR WATER SERVICE. Bills and notices relating to the conduct of the business of the municipality will be mailed to the customer at the address listed on the application, unless a change of address has been filed in writing at the business office of the municipality; and the municipality shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from nonpayment of a bill or from any performance required in said notice.

1. **Bills Payable.** Bills for water service are due and payable at the business office of the municipality, or to any designated agent, on their date of issue. The past due date shall be the 15th day after the date of issue. Bills will be dated and mailed on the first of each month.
2. **Delinquent Bills.** All bills not paid on or before the past due date shall be termed delinquent, and the municipality shall serve on the customer a written final notice of said delinquency. If a delinquent bill is not paid within 15 days after date of such final notice, the water supply to the customer may be discontinued without further notice.
3. **Meters Read.** Meters will be read monthly between the 15th and 20th of each month.

90.07 SHUTTING OFF WATER SUPPLY. Where the water supply to a customer has been discontinued for non-payment of delinquent bills, a charge of \$5.00 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 to the municipality have been paid.

90.08 DEPOSIT. The municipality reserves the right to request a nominal sum be placed on deposit with the municipality for the purpose of establishing or maintaining any customer's credit.

90.09 METER INSTALLATION. All meters shall be installed, maintained, and renewed by and at the expense of the municipality, and the municipality reserves the right to determine the size and type of meter used.

90.10 METER TESTING. Upon the written request of any customer, the meter serving said customer shall be tested by the municipality. Such test will be made without charge to the customer if the meter has not been tested within 12 months preceding the requested test, otherwise a charge of \$2.00 will be made and then only if the test indicates meter accuracy within the list of 2%.

90.11 WATER USE AVERAGED. When a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed for billing purposes will be based upon an average of the prior six months consumption, and the conditions of water service prevailing during the period in which the meter failed to register.

90.12 CONSTRUCTION METER. Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made, the minimum deposit being \$10.00; and the amount to be determined by the municipality depending upon the size of the construction work contemplated; and all water for building or construction purposes set forth in the permit, must pass through one and the same meter.

Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench and all use of water by other than applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice.

90.13 INTERRUPTION OF SERVICE. The municipality shall make all reasonable efforts to eliminate interruption of service and when such interruptions occur will endeavor to re-establish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.

90.14 LIABILITY. The municipality shall in no event be held responsible for claims made against it by reason of the breaking of any other interruption of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption of service which, in the opinion of the municipality, may be deemed necessary.

90.15 CHECK VALVE. Customers having boilers and/or pressure vessels receiving a supply of water from the municipality must have a check valve on the water supply line and a vacuum valve on the steamline to prevent collapse in case the water supply from the municipality is discontinued or interrupted for any reason without notice.

90.16 INSPECTION. The premises receiving a supply of water and all service lines, meters, and fixtures including any and all fixtures within the said premises shall at all reasonable hours be subject to inspection by duly authorized employees of the municipality.

90.17 CITY USE. Special terms and conditions may be made where water is used by the municipality or community for public purposes such as fire extinguishers, public parts, etc.

90.18 PERMIT.

1. Permit Required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the waterworks or appurtenances thereof without first obtaining a written permit.
2. Bond Required. Before a permit may be issued, the person applying for such permit shall have executed unto the municipality and deposited with the Secretary, corporate surety in the minimum sum of \$1,000.00 conditioned that he will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances pertaining to plumbing,

waterworks, or appurtenances. This bond shall state that the person will indemnify and save harmless the municipality and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing, waterworks, or appurtenances as prescribed in this chapter.

Such bond shall remain in force and must be executed for a minimum of one year except that on such expiration it shall remain in force as to all penalties, claims, and demands that may have occurred thereunder prior to such expiration.

3. Permit Application. There shall be two classes of permit applications; one for residential service, and the second for commercial and industrial service. In either case the owner or his agent shall make application. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the inspector. A permit and inspection fee of \$5.00 for a residential service and \$15.00 for a commercial or industrial service connection shall be paid to the municipality at the time the permit application is filed.

4. Plumbing Code. Service lines and appurtenances shall be constructed in accordance with the State Plumbing Code.

90.19 NEGLIGENCE. If any loss or damage to the property of the municipality or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the customer, member of his household, his agent or employee, the cost of the necessary repairs or replacements shall be paid by the customer to the municipality and any liability otherwise resulting shall be that of the customer.

90.20 WATER USED FOR DOMESTIC CONSUMPTION. Water furnished by the municipality may be used for domestic consumption by the customer, members of his household, and employees only. The customer shall not sell or give the water to any other person.

90.21 EASEMENT OR RIGHT-OF-WAY. Each customer shall grant or convey, or shall cause to be granted or conveyed to the municipality a permanent easement and right-of-way across any property owned or controlled by the customer wherever said easement or right-of-way is necessary for the municipal water facilities and lines, so as to be able to furnish service to the customer.

90.22 WATER LINE EXTENSION.

1. Construction of Extensions. The municipality shall construct extensions to its water lines to points within its service area but the municipality shall not be required to make such installations unless the customer pays to the municipality the entire costs of the installation.

2. Contract. All line extensions shall be evidenced by a contract signed by the municipality and the person advancing funds for said extensions, but each contract shall be null and void unless approved by the Farmers Home Administration and other governing bodies.

3. Refund. If a refund of the advance is to be made, the following method shall apply: 20% of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed five years, provided that the aggregate payments do not exceed the total amount deposited. No

refund shall be made from any revenue received from any lines leading up to or beyond the particular line extension covered by the contract.

4. City Controls. All decisions in connection with the manner of installation or any extension and maintenance thereof shall remain in the exclusive control of the municipality and such extension shall be the property of the municipality and no other person shall have any right, title, or interest therein.

90.23 RIGHT OF REFUSAL. The municipality may refuse service to persons, no presently customers, when in the opinion of the municipality the capacity of the facilities will not permit such service.

90.24 RULES. The rules in this chapter may be changed or amended.

90.24 COMPLAINTS. Complaints may be made to the operator of the system and may be appealed to the Council within 10 days.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

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

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

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

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and 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 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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[3ff])

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

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

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Connection Charge

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

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

96.02 CONNECTION CHARGE. Before any person begins any excavation for installation of a building sewer, which is to be connected to the public sewer, there shall be a connection charge paid to reimburse the City for costs borne by the City in making sewer service available to the property served in accordance with the following:

1. For a connection along the Twelfth Street addition or other area of the City where a sewer pump lift station is used for sewer flow, a connection charge in the amount of \$1,000.00
2. For any other connection, a connection charge of \$500.00.

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

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

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

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the

building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

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

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

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

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

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

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

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

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

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

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified

clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

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

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

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

CHAPTER 97

USE OF PUBLIC SEWERS

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

97.05 Restricted Discharges; Powers of Superintendent
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 milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5.  Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

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

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

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

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

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.

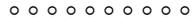
(IAC, 567-69.1[3])

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 Special Rates
99.03 Private Water Systems
99.04 Payment of Bills

99.05 Lien for Nonpayment
99.06 Lien Exemption
99.07 Lien Notice
99.08 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

(Code of Iowa, Sec. 384.84)

1. First 1,000 gallons of water used per month, \$33.30 (minimum bill).
2. All over 1,000 gallons of water used per month, additional \$12.70 per 1,000 gallons.

Effective July 1, 2020, there shall be an increase of one percent each year, beginning with July 1, 2020, until and including July 1, 2024.

99.02 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 99.01 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)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable as part of a combined service account under the same terms and conditions as payment for electric service as established by the Electric Utility Board of Trustees. To the extent that the sewer service charges are billed as part of a combined service account, utility services may be discontinued if the sewer service charges become delinquent.

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

(Code of Iowa, Sec. 384.84)

99.06 LIEN EXEMPTION.*(Code of Iowa, Sec. 384.84)*

1. Exemption. The lien for nonpayment shall not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
2. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.
3. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsection 1 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

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

(Code of Iowa, Sec. 384.84)

99.08 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

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CHAPTER 100

STORM WATER UTILITY

100.01 Purpose and Objective	100.08 Powers and Duties of the City
100.02 Creation of Utility	100.09 Responsibility for System
100.03 Definitions	100.10 Requirements for On-Site Storm Water Systems Enforcement and Inspections
100.04 Storm Water Utility Fund	100.11 Right to Appeal
100.05 Storm Water Utility Budget	100.12 Billing and Collection
100.06 Rate Structure and Storm Water Service Charge	100.13 Adjustments to Storm Water Service Charges
100.07 Powers of Staff of the Storm Water Utility	100.14 Exemptions and Credits

100.01 PURPOSE AND OBJECTIVE.

1. The purpose of this chapter is to establish a policy and procedure for managing and controlling the quantity and quality of storm water runoff within the City limits. The management shall include the establishment of a storm water utility to provide revenues for whatever aspects of this requirement are deemed appropriate by the City.
2. The City finds, determines, and declares that the storm water drainage system provides benefits and services to all property within the City limits. Such benefits include (but are not limited to) the provision of adequate systems for collection, conveyance, detention, treatment, and release of storm water for quality and quantity management and which minimize impacts on receiving waters.
3. In order to manage additions and improvements to the City storm water systems, the City must have adequate and stable funding for its storm water management program operating and capital investment needs.

100.02 CREATION OF UTILITY.

1. The function of the Storm Water Management and Drainage Systems Utility (hereinafter referred to as “storm water utility” or “SWU”) within the Public Works Department is to provide for the safe and efficient capture of storm water runoff, mitigate the damaging effects of storm water runoff, correction of storm water problems, to fund activities of storm water management, and include design, planning, regulations, education, coordination, construction, operations, maintenance, inspection, and enforcement activities.
2. There is hereby established a storm water utility within the City, which shall be responsible for creating revenue for storm water management throughout the City’s corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of storm water systems and facilities. The corporate limits of the City, as increased from time to time, shall constitute the boundaries of the storm water utility district.
3. The City shall establish a Storm Water Utility Fund in the City budget and accounting system, separate and apart from its General Fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility.

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

1. "Adjustment" means a modification in a nonresidential customer's storm water service fee for certain activities that impact storm water runoff or impact the City's costs of providing storm water management.
2. "Detached dwelling unit" means developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land.
3. "Developed agricultural properties" means a lot or parcel of real estate used as a farm, which may contain one or greater dwelling units and/or other building structures but does not include undeveloped properties.
4. "Developed property" means property altered from its natural state by the construction or installation of a structure or more than 3,250 feet of impervious surface thus increasing the amount of rainwater or surface water runoff.
5. "Director" means the director of the Storm Water Utility.
6. "Equivalent residential unit" (ERU) means the average impervious area of a detached dwelling unit property within the City, and shall be used as the basis for determining storm water service charges to detached dwelling unit properties.
7. "ERU rate" means the dollar value periodically determined and assigned to each ERU as a charge for storm water management services, expressed as \$2.00 per ERU.
8. "Exempt property" includes public streets, alleys and sidewalks; City Hall, City utility buildings, parking lots and substation; all undeveloped properties.
9. "Ground water" means sub-surface water or water stored in pores, cracks, and crevices in the ground below the water table.
10. "Impervious area" means the number of square feet of hard-surfaced areas which either prevent or resist the entry of water into soil surface, as it entered under natural conditions as undeveloped property, and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property. This includes but is not limited to roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, athletic courts, and semi-impervious surfaces, such as gravel, which are used as driveways or parking lots.
11. "Nonresidential properties" means all properties not encompassed by the definition of residential shall be defined as nonresidential. Nonresidential properties shall include: apartment building properties; condominiums properties; mobile home parks; commercial property; industrial property; institutional property; governmental property; churches; hospitals; schools; transient rentals; parking lots; federal, State and local properties; and any other property not mentioned in the lists of properties.
12. "Occupant" means the person residing or doing business on the property. In a family or household situation, the person responsible for the obligation imposed shall be the adult head of the household. In a shared dwelling or office situation, the adult legally responsible for the management or condition of the property shall be responsible.

13. “Owner” means the legal owner of record as shown on the tax rolls of the City, except where there is a recorded land sale contract, the purchaser thereunder shall be deemed the owner.
14. “Residential property” means all single-family and duplex properties within the City.
15. “Service charges” means the periodic rate, fee, or charge applicable to a parcel of developed land, which charge shall be reflective of the service provided by the storm water utility. Service charges are based on measurable parameters which influence the storm water utility’s cost of providing services and facilities, with the most important factor being the amount of impervious area on each parcel of developed land.
16. “Storm sewer” means a sewer that carries storm water, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than permitted discharges.
17. “Storm water” means storm water runoff, snowmelt runoff, and surface runoff and drainage.
18. “Storm water drainage system” means all man-made facilities, structures, and natural watercourses owned by the City, used for collection and conducting storm water to, through, and from drainage areas to the points of final outlet, including (but not limited to) any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gullies, ravines, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations.
19. “Storm water facilities” means various storm water and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, stream channels, outlets, retention/detention basins, infiltration practices and other structural components.
20. “Storm water management” means the tasks required to control storm water runoff using storm water management systems, to protect the health, safety, and welfare of the public, and comply with relevant State and federal regulations.
21. “Storm water management systems” address the issues of drainage management (flooding) and environmental quality (pollution, erosion, and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of storm water or surface water drainage.
22. “Storm water utility” means the utility established under this chapter for the purpose of managing storm water and imposing charges for the recovery of costs connected with such storm water management.
23. “Surface water” means water bodies and any water temporarily residing on the surface of the ground including lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.
24. “Undeveloped property” describes land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have minimal concrete pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface.

25. “User” means the owner and/or occupant of any developed property within the limits of the City, and also means any person who uses property which maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of any habitable property is deemed the user. If the property is not occupied, then the owner shall be deemed the user.

26. “Water course” means a natural overland route through which water passes, including drainage courses, streams, creeks, and rivers.

100.04 STORM WATER UTILITY FUND. Funding for the storm water utility’s activities may include (but are not limited to): storm water service charges; storm water permits and inspection fees; other funds or income obtained from federal, State, local, and private grants, or loans. All service charges and all sources of revenue generated by or on behalf of the storm water utility shall be deposited in a storm water utility fund and used exclusively for management of the storm water utility.

100.05 STORM WATER UTILITY BUDGET. The City shall adopt an operating and capital budget for the storm water utility each fiscal year. The budget shall set forth revenues for such fiscal year and estimated expenditures for operations, maintenance, improvements, replacement and debt service.

100.06 RATE STRUCTURE AND STORM WATER SERVICE CHARGE. Any property, lot, parcel of land, building or premises that is tributary directly or indirectly to the storm water system of the City, shall be subject to a fee. This charge is not related to the water and/or sanitary sewer service and does not rely on occupancy of the premises to be in effect. The SWU fee shall be expressed as a number of equivalent residential units (ERU) and be billed at a rate of \$2.00 per ERU. The SWU shall utilize a three-tier rate fee structure described below; all properties, lots, parcels, and buildings shall be designated as one of three classifications – Class A, B or C.

1. Class A Uses. Improved properties that qualify under this section as Class A uses shall be charged at the monthly rate of one ERU (\$2.00) per dwelling unit. The following uses shall be defined as Class A uses:

A. Single-Family Residence. A residential structure not attached to another residential structure on one or more parcels of land, providing there are not more than two residential structures on one parcel. This definition also includes trailers, mobile homes, and manufactured homes, if on separate parcels. Two separate dwelling units on a single parcel shall be charged one ERU per dwelling unit. Three or more residential dwelling units on one parcel, whether attached or unattached, shall be considered a multiple-family residential use.

B. Duplex. Two dwelling units joined to each other with a common wall, or one above the other, on one or two parcels. The units may be under one ownership, or owned separately. Each dwelling unit of the duplex shall be charged one ERU per month.

C. Multi-Family Residential Use. Three or more dwelling units joined to each other horizontally or vertically, on one or more parcels. The units may be under one ownership or more. Each dwelling unit shall be charged one ERU. The owner of the taxed land parcel shall be deemed the user; except where multi-family dwelling units are individually metered the occupant of each unit is deemed the user and shall be charged one ERU per month.

- D. Condominiums. Each living unit of a condominium shall be charged one ERU per month. Unit is defined as living units and do not include supporting uses, such as garages, even though they may be on separate parcels.
- E. Mobile Home Parks. Includes mobile homes on a single tax lot (even if there are more than two per tax lot) under one ownership, where spaces are leased or rented for a mobile home or trailer to be placed. Other impervious areas contained within the boundaries of the mobile home park shall not be measured. The owner of the taxed land parcel shall be deemed the user; except where mobile homes are individually metered, the occupant of each unit is deemed the user and shall be charged one ERU per month.
2. Class B and C Uses - Commercial, Industrial, Institutional. For such uses, the impervious surfaces of the property, as defined by rule, shall be measured. The area shall be estimated using one or more of the following: aerial photographs, assessment records, building permits, construction plans, site visits, ad valorem property tax records, storm and surface water system connection permits, field surveys or other sources deemed reliable by the City connection permits, field surveys or other sources deemed reliable by the City. These categories include the entire range of office, manufacturing service, sales, restaurant, daycare, nursery, warehouse, churches, schools, utilities, public service buildings, parks, hospital, nursing home, rest home, retirement home, utility buildings and other areas, community building, parking lots, and other similar uses. This category includes land with an impervious surface with no building improvements. These properties shall be placed into one of the following classes based on their measured impervious surfaces:
- A. Class B Uses. Commercial, industrial or institutional properties with impervious surface areas under 35,000 square feet shall be charged an SWU fee of three ERUs (\$6.00).
- B. Class C Uses. Commercial, Industrial or Institutional properties with impervious surface areas over 35,000 square feet shall be charged an SWU fee of six ERUs (\$12.00).
3. General Policies.
- A. Minimum Charge. The minimum charge for any parcel with impervious areas subject to the SWU charge shall be one ERU.
- B. Community Facilities. The flat rate category includes typical residential uses within a parcel or single ownership, as defined above. If a community or neighborhood recreation center or similar facility exists within a subdivision, even if associated with the single-family or duplex properties, that property shall be measured and charged separately to the user of that property.
- C. Seasonal Impervious Area. Properties which have areas that are impervious for only a portion of the year shall constitute seasonal impervious area. If an impervious area is in place for more than three months per year, it shall be subject to the SWU charge.
- D. Miscellaneous.
- (1) No credits, exemptions, or reductions shall be given for impervious surfaces that are submerged for a portion of the year.

- (2) If impervious areas are so small they cannot be detected on aerial maps at a scale of one inch to 50 feet, then they shall not be included in the total impervious area.
 - (3) A residence of any kind and a garage for that residence shall be charged one ERU, even if on two adjacent parcels.
 - (4) In-ground swimming pools are exempted from SWU fees providing the filter drains are connected to the sanitary sewer system. Above ground swimming pools are exempt from SWU fees.
 - (5) Impervious areas are subject to the SWU fee regardless of the percentage of the entire property occupied by the impervious area.
4. Roads. Public roads and private roads in residentially zoned areas of the City shall not be included in the measurement of impervious surface areas.
5. Parking and Storage Areas. All parking and vehicle storage areas that are gravel or paved on a measured use parcel shall be considered impervious and subject to the SWU fee.
6. Railroad Facilities. Railroad facilities shall be included in the measurement of impervious area, but the rail grade itself shall be excluded as being pervious.
7. Landscaping Exempted. Gravel areas that are used for landscaping or foot traffic and are not considered highly compacted shall not be considered impervious for purposes of determining the SWU fee.
8. Exemption from SWU Service Charges.
 - A. Users of properties for which all storm water is disposed of on-site, as defined by City standards, may request an exemption from SWU service charges. No partial exemptions for disposal of only a portion of the storm and surface waters on-site shall be allowed. In order to qualify for service charge exemption, the user must design, construct, and maintain an on-site facility that keeps all storm and surface water for the full range of storms during the year. For the purpose of this section, the term "property" means a parcel of land or a group of adjacent parcels working in cooperation. The term "on-site disposal" means on the parcel, or on another parcel in the near vicinity of the parcel requesting the exemption. In order to qualify for the exemption, the on-site system must encompass the entire property (except for incidental impervious areas as defined below), must be completely separated from the public system, and must provide adequate on-site disposal. Incidental areas such as sidewalks, decks, and driveway aprons, shall not exceed 10 percent of the total impervious area. On-site disposal facilities that may qualify are dry wells, injection wells, retention basins with percolation/evaporation capacity, and retention basins with capacity large enough to accommodate the total of all storms through the year. Many of these may have a possible adverse effect on ground water, and some techniques may require approval of State, federal and local agencies.
 - B. To qualify, an applicant must submit a request to the City for a waiver of monthly service charges relating to the property. This request shall include a certification from an engineer, or other evidence acceptable to the City, that shows the system is separate and will dispose of the full range and volume of storm water through the year on-site. The applicant shall also submit a

maintenance plan for assuring the system will function as designed. The application must be signed by the property owner. A decision denying an exemption may be appealed. If approved, the waiver will be effective for the next billing cycle.

C. The City retains the right to inspect the on-site measures to assure they are functioning as designed. If at any time the measures are found to not be effective, the exemption shall cease.

D. To recognize the reduction in storm water runoff related to certain conservation design practices, the impervious area of facilities that are in accordance with approved conservation design practices will be reduced by a percentage of the total impervious area of that facility. The reduction is based on the impervious area subject to the conservation design practice and does not include a reduction of the total site impervious area or the impervious area of facilities that do not include conservation design practices. The maximum credit provided for any impervious area is the largest credit of applicable individual conservation design practices and a cumulative reduction is not allowed. The reduction of the impervious area of facilities subject to conservation design practices is:

Green roof design	65% reduction
Porous pavement	50% reduction*
Rain gardens, bioswales and similar facilities	50% reduction
<p>1. *The reduction for porous pavement shall be valid for a period of five years. The City will inspect the porous pavement every five years and determine if the porous pavement continues to maintain the high porosity associated with porous pavement design. If the high porosity continues, the credit will be renewed for a period of five years. If the porosity has been decreased due to plugging or fouling, the credit will not be renewed.</p>	

9. The estimated storm water utility system actual costs may include funds that are budgeted for accumulation for future capital improvement projects even though said funds may not be expended during the fiscal year in which the revenue is budgeted for collection.

10. Records. All ERU records for all properties within the City shall be kept on file in the City Clerk’s office and shall be available during normal office hours for examination.

11. Deposit. All users of the storm water utility may be subject to the provisions for utility deposit if established by rule of Council.

100.07 POWERS OF STAFF OF THE STORM WATER UTILITY. Storm water service charges incurred pursuant to this chapter may be collected by the storm water utility staff or designee who is also responsible for the regulation, collection, rebating and refunding of such storm water charges.

100.08 POWERS AND DUTIES OF THE CITY. The City shall have the following powers, duties, and responsibilities with respect to the storm water utility:

1. Administer the design, construction, maintenance, and operation of the utility system, including capital improvements designated in the comprehensive drainage plan.
2. Acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage, and finance such facilities, operations, and activities, as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include (but are not limited to) surface and underground drainage facilities, storm sewers, watercourses, ponds, ditches, and such other facilities relating to collection, runoff, treatment and retention as will support a storm water management system.
3. The City shall separately account for the storm water utility finances. The storm water utility shall prepare an annual budget, which is to include all operation and maintenance costs and costs of borrowing. The budget is subject to approval by the City Council. Any excess of revenues over expenditures in a year shall be retained in a segregated fund, which shall be used for storm water utility expenses in subsequent years. Storm water utility fees collected shall be deposited in the storm water utility fund and shall be used for no other purpose. The City shall provide adequate liability insurance for ponds, reservoirs, drainage wage channels and other storm water utility infrastructure.

100.09 RESPONSIBILITY FOR SYSTEM. The City storm water management and drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the City which control and/or convey storm water through which the City intentionally diverts surface waters from its public streets and properties. The City owns or has legal access and easement for purposes of operation, maintenance and improvements to those segments of this system which:

1. Are located within public streets, rights-of-way, and easements;
2. Are subject to easements of rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or
3. Are located on public lands to which the City has adequate access for operation, maintenance, and/or improvement of systems and facilities. Operation and maintenance of storm water systems and facilities which are located on private property or public property not owned by the City and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner.

It is the intent of this section to protect the public health, safety, and general welfare of all properties and persons in general, but not to create any special duty or relationship with an individual person or to any specified property within or without the boundaries of the City. The City expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created.

100.10 REQUIREMENTS FOR ON-SITE STORM WATER SYSTEMS, ENFORCEMENT AND INSPECTIONS.

1. All property owners and developers of developed real property within the City shall provide, manage, maintain, and operate on-site storm water systems sufficient to collect, convey, detain, and discharge storm water in a safe manner consistent with all City, State, and federal laws and regulations.
2. Pursuant to Section 364.12(3) of the *Code of Iowa* or successor section, any failure to meet this obligation may constitute a nuisance and may be subject to an abatement action filed by the City. In the event a nuisance is found to exist, which the owner fails to properly abate within such reasonable time as allowed by the City, the City may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. The City shall have the right, pursuant to the authority of this section, for its designated officers and employees to enter upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

100.11 RIGHT TO APPEAL. Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

1. An appeal must be filed in writing with the City Clerk. In the case of service charge appeals, the appeal shall include a survey prepared by a registered Iowa land surveyor or professional engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.
2. Using the information provided by the appellant, the City's designated engineer shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days.
3. In response to an appeal, the City Clerk may adjust the storm water service charge applicable to a property in conformance with the general purpose and intent of this chapter.
4. A decision of the City Clerk which is adverse to an appellant may be further appealed to the City Council within 30 days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Council by the appellant, stating the grounds for the appeal. The City Council shall schedule a public hearing within 30 days. All decisions of the City Council shall be served on the appellant by registered mail, sent to the billing address of the appellant.
5. All decisions of the City Council shall be final.

100.12 BILLING AND COLLECTION.

1. A storm water service charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for nonpayment. Regardless of the party to whom the bill is initially directed, liability for payment of the storm water management charge attributable to that property shall be joint and several as to the owner and occupant.

2. A penalty of one and a half percent shall be added to a comprehensive storm water service charge when the charge is not paid in said 30 days.
3. The Director shall certify to the Director of Finance any comprehensive storm water service charge, which is owed after a 90-day payment period. All certified service charges constitute a lien upon the premises served by the storm water system for which the service charges were made and shall be collected in the same manner as property taxes. Failure to send or receive a bill for comprehensive storm water service charge is not a defense to the collection of the service charges.
4. Suits for collection shall be commenced by the City in the Iowa District Court for Poweshiek County. No lien shall be imposed for delinquent collections unless a judgment is first obtained from a court of competent jurisdiction. The City may employ any lawful means to collect funds owed, and is not restricted to filing a lawsuit.
5. The storm water utility service charge may be billed on a common statement and collected along with other City utility services, usually on a quarterly basis.

100.13 ADJUSTMENTS TO STORM WATER SERVICE CHARGES. Increase adjustments (debit) can be made to nonresidential service charges by property owners adding additional impervious area such as rooftops, parking lots, driveways and walkways.

100.14 EXEMPTIONS AND CREDITS. All public or private property shall be subject to storm water utility service charges except as provided in this chapter. A storm water utility service charge formula is available in the office of the storm water utility. The following areas are exempt from storm water utility service charges:

1. Undeveloped property as defined in this chapter.
2. Streets, alley ways, and highways in the public and private domain are exempt from utility service charges or connection fees.
3. Railroad rights-of-way (tracks) shall be exempt from storm water service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges.
4. City property, City parking lots, community building and City utility facilities.

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CHAPTER 101

SUMP PUMP DISCONNECTION PROGRAM

101.01 Purpose	101.06 Noncompliance Fee for Sump Pump Connection
101.02 Applicability	101.07 Rebuttable Presumption
101.03 Notification Procedure	101.08 Inspection and Notice
101.04 Removal of Sump Pump Connections Required	101.09 Violation and Penalty
101.05 Approved Removal Procedure	

101.01 PURPOSE. The purpose of this chapter is to eliminate sump pump connections to the sanitary sewer system by the establishment of procedures of notification and procedures of removal for sanitary sewer system customers to disconnect from the sanitary sewer system within a specified period of time, and to establish monthly surcharge payments for sanitary sewer system customers with previous notification that fail to disconnect sump pump within a specified period of time following the notification. This chapter does not apply to footing drains, foundation drains, and roofdownspouts.

101.02 APPLICABILITY. This chapter shall be applicable to all properties located within the corporate boundaries of the City which are not currently connected to a public storm sewer system, public footing drain collection system, or approved surface water collection system.

101.03 NOTIFICATION PROCEDURE. City Staff shall notify, by mail or other method as approved by the City Council, sanitary sewer system customers that directly or indirectly connect sump pumps, sump pits, or similar systems or devices to the sanitary sewer system. The notification shall mandate that disconnection from the sanitary sewer system is required within 30 days and installation of a sump pump pit, sump pump, discharge line, and connection to a public storm sewer system or public footing drain collection system, yard or street is required.

101.04 REMOVAL OF SUMP PUMP CONNECTIONS REQUIRED. All indirect or direct connections of sump pump, sump pit, or similar system or device intended to collect and convey groundwater along; adjacent to, beside or under the footing, foundation or basement of any building shall be disconnected from the sanitary sewer system within 30 days after the notification by the City Staff.

101.05 APPROVED REMOVAL PROCEDURE. The approved removal procedure for indirect or direct connected sump pumps, sump pits, or similar systems or devices to the sanitary sewer system footing drain connection to the sanitary sewer system under this chapter must fully comply with the following:

1. **Approved System.** An approved system for the removal of sump pump, sump pit or similar system or device connection must be used. The approved system shall consist of a sump pump and sump pit with a discharge to an approved storm sewer connection, an approved footing drain collection connection, an approved yard location, or to the street.
2. **Plugging of Existing Connection.** Any direct or indirect connection between the sump pump and/or sump pit and the sanitary sewer system of the building shall be permanently plugged.

- 3. Floor Drain Connection Prohibited. The new system shall be installed in such a manner that direct or indirect flow from the footing drain to a floor drain shall not be possible.
- 4. Post-Construction Inspection. The installation of the sump pump and associated facilities work shall be inspected by the City or certificate from a State of Iowa licensed plumber. The sanitary sewer customer shall be responsible to schedule the post-construction inspection.

101.06 NONCOMPLIANCE FEE FOR SUMP PUMP CONNECTION. Any sanitary sewer customer who has not scheduled a City inspection within 30 days of the publication of the ordinance codified in this chapter or with direct sump pump connection to the sanitary sewer system, being properly notified as described under Section 101.03, and remaining in place 30 days after said notification, shall be subject to a monthly surcharge for potential un-metered flow contributed to the sanitary sewer system. The payment will be in addition to all other sanitary sewer user charges. The monthly surcharge fee table for noncompliance is as follows:

First year.....	\$25.00 per month
Second year	\$50.00 per month
Third year	\$75.00 per month
Fourth year	\$100.00 per month

101.07 REBUTTABLE PRESUMPTION. There is a presumption that all sanitary sewer customers within the corporate City limits have a sump pump connection to the sanitary sewer system as prohibited under this chapter. Effective 30 days after publication of the ordinance codified in this chapter, properties that have not scheduled a City inspection or completed an approved removal procedure or other equivalent removal procedure inspected and documented by the City shall be presumed to have a noncompliant sump pump connection for purposes of this chapter. The payment shall continue until such time as the City determines through inspection the sump pump, sump pit or similar device connection no longer exists.

101.08 INSPECTION AND NOTICE. The City may conduct periodic inspections of properties to confirm there are no indirect connections of a sump pump to the sanitary sewer system. Upon reasonable notice of this inspection to be conducted at a reasonable time, property owner shall not refuse the City access to the property. If during an inspection the City determines there is an indirect connection as a result of a modification of the system to allow for an indirect connection, failure to maintain or replace a failed sump pump that would allow an indirect connection to the sanitary sewer system, or such other cause as may allow a direct or indirect connection, the City shall provide the property owner a written notice. The property owner shall be provided 30 days to cure the defect and to arrange for a re-inspection by the City or a State of Iowa licensed plumber. If at the end of 30 days the indirect connection has not been inspected and determined to have been removed, the property shall be subject to the un-metered flow charge provisions under this chapter. The payment shall continue until such time as the City determines through inspection the indirect footing drain connection no longer exists.

101.09 VIOLATION AND PENALTY. Violations of the provisions of this chapter are punishable as a municipal infraction. Said persons shall be liable to the City of any expense, loss or damage occasioned the City by reason of such violation.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.06 Separation of Yard Waste Required
105.02 Definitions	105.07 Littering Prohibited
105.03 Sanitary Disposal Required	105.08 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.09 Waste Storage Containers
105.05 Open Burning Restricted	105.10 Prohibited Practices

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

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. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

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

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

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

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

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

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

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

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

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

(Code of Iowa, Ch. 657)

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

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

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

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

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

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

(IAC, 567-23.2[3c])

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

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air

contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

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

(IAC, 567-23.2[3g])

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

(IAC, 567-23.2[3h])

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

(IAC, 567-23.2[3i])

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

(IAC, 567-23.2[3j])

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

(IAC, 567-23.2[2])

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

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

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

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural

Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

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

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

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

A. Residential. Residential waste containers shall be of sufficient capacity, leakproof and waterproof. Reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices. All residential waste set out for collection shall be contained in plastic biodegradable bags with the name of the collector thereon. The bags shall be available for purchase at such locations as designated by the City and at such prices as established by resolution of the Council.

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 at the curb or property line by the owner or occupant of the premises served. Placement of the containers at the curb or property line shall occur prior to 6:00 a.m. on the regularly scheduled collection day, but not earlier than 4:00 p.m. on the day preceding the collection day, and shall be promptly removed following collection.

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

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Burning in Backyard Burn Barrels. Burn in backyard burn barrels.

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CHAPTER 106

COLLECTION OF SOLID WASTE

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

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

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

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be 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 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, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

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

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

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

Fee for Collection. The fee for solid waste and recyclable material collection and disposal service, used or available, is \$8.50 per month for each residential premises and for each dwelling unit of a multiple-family dwelling. However, if water service to the premises has been discontinued at the request of the customer, no solid waste collection fee shall be charged.

2. Payment of Bills. All fees are due and payable as part of a combined service account under the same terms and conditions as payment for electric service as established by the Electric Utility Board of Trustees. To the extent that the fee is billed as part of a combined service account, utility services may be discontinued if the fee becomes delinquent.

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

(Code of Iowa, Sec. 384.84)

106.10 RECYCLING PROGRAM. The City shall provide for the collection of recyclable materials from residential premises in accordance with the rules and regulations of the City's recycling program as established by resolution of the Council. All recyclable material to be collected by the collector shall be stored in a residential recycling kit approved by the City and provided by the collector. Any written agreement between the collector and customer for the loan, use and maintenance of the recycling kit shall be approved in advance by the Council.

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CHAPTER 110

GAS UTILITY

110.01 Purpose
110.02 Policy Direction
110.03 Superintendent
110.04 Service Rules and Regulations

110.05 Charges, Terms, and Conditions
110.06 Rates
110.07 Special Rates
110.08 Rate Adjustment

110.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned gas system.

110.02 POLICY DIRECTION. The Mayor and Council shall establish appropriate rules and regulations governing the operation and maintenance of the gas system.

110.03 SUPERINTENDENT. The Gas Superintendent shall be responsible for execution of policies governing the system as established by the Council.

110.04 SERVICE RULES AND REGULATIONS. The rules and regulations for gas service are contained in the “Municipal Gas Utility of the City of Montezuma Tariff,” on file with the Utilities Division of the Iowa Department of Commerce. Also, an official copy of the rules and regulations as adopted is now on file in the office of the Clerk. The rules and regulations contained therein shall apply to all users of the municipal gas system.

110.05 CHARGES, TERMS, AND CONDITIONS. The charges, terms and conditions established by this section are to be read in conjunction with the appropriate section of the gas service tariff. Charges, terms and conditions as established by this section are subject to other such conditions and stipulations as may be required by the gas service tariff. All charges, terms, conditions and stipulations of both this section and the gas service tariff are subject to change from time to time, pursuant to a subsequent ordinance or tariff change filing with the Iowa Department of Commerce.

1. Residential or Commercial Deposits at a Place Which Has Previously Received Gas Service. In conjunction with Section 3.2(1)a of the gas service tariff, the deposit for service shall be \$100.00 or an amount equal to the highest billing for service for one month for the place in the previous twelve-month period.
2. Replacement or Additional Deposits. In conjunction with Section 3.2(1)e of the gas service tariff, the number of late payments allowed in any twelve-month period, before a replacement or additional deposit for service is required is none.
3. Interest on Deposits. In conjunction with Section 3.2(2) of the gas service tariff, the interest rate on customer deposits shall be one percent, compounded annually.
4. Amount of Penalty. In conjunction with Section 3.3(4) of the gas service tariff, the late payment penalty shall be one and one-half percent per month on the unpaid balance.
5. Back Billing for Meter Error. A customer shall be back billed if the recalculated bill due to meter error exceeds \$10.00. A former customer shall be back billed if the recalculated bill due to meter error exceeds \$20.00.

6. Undercharge Not Due to Meter Error. In conjunction with Section 3.3(7)b of the gas service tariff, a customer shall be back billed if the recalculated bill due to an error other than meter error exceeds \$10.00. A former customer shall be back billed if the recalculated bill due to an error other than meter error exceeds \$20.00. Back billing in both instances shall be for a period not to exceed one year.

7. Accidental Wastage of Gas – Customer Side. In conjunction with Section 3.3(7)c of the gas service tariff, if gas wastage occurs on the customer side of the meter, without the knowledge of and without negligence by the customer, and the customer provides reasonable evidence of such lack of negligence and knowledge, the re-computation period shall not extend back farther than two months for crediting purposes on the customer’s bill.

8. Returned Checks. In conjunction with Section 3.3(7)d of the gas service tariff, the charge for any check or check-like financial instrument dishonored by a financial institution for any reason shall be \$5.00 for each returned check. If two or more of the customer’s financial instruments are dishonored with a 12-month period, future payments by the customer shall be by cash, cashier’s check or postal money order for a period not less than 12 months.

9. Temporary Disconnections and Reconnections (Voluntary). In conjunction with Section 3.4(1) of the gas service tariff:

- A. The temporary disconnection service charge shall be:
 - (1) Regular: \$20.00
 - (2) Overtime: \$25.00
- B. The temporary reconnection service charge shall be:
 - (1) Regular: \$20.00
 - (2) Overtime: \$25.00

No monthly idle charge will be billed for service connections temporarily disconnected.

10. Permanent Disconnections (Voluntary). In connection with Section 3.4(1)b of the gas service tariff, the permanent disconnection service charge shall be:

- A. Regular: \$20.00
- B. Overtime: \$25.00

The municipal utility requires 24 hours’ notice by the customer prior to requested time of permanent disconnection.

11. Disconnection and Reconnection Fee (Involuntary) – Other Than Nonpayment. In conjunction with Section 3.4(2)c of the gas service tariff:

- A. The involuntary disconnection service charge shall be:
 - (1) Regular: \$20.00
 - (2) Overtime: \$25.00
- B. The involuntary reconnection service charge shall be:
 - (1) Regular: \$20.00
 - (2) Overtime: \$25.00

12. Disconnection and Reconnection Fee (Involuntary) – Nonpayment. In conjunction with Section 3.5(1) of the gas service tariff:

- A. The involuntary for nonpayment disconnection service charge shall be:
- (1) Regular: \$20.00
 - (2) Overtime: \$25.00
- B. The involuntary for nonpayment reconnection service charge shall be:
- (1) Regular: \$20.00
 - (2) Overtime: \$25.00
13. Charged Service Calls. In conjunction with Section 3.7(1) of the gas service tariff:

A. No charge shall be made for adjustments to customers' appliances, or for relighting pilots extinguished as a result of pressure failure. For relocation of municipal utility's facilities where relocation has been requested by the customer or any person and such relocation is the responsibility of the customer or the requesting person, the service charge shall be:

- (1) Regular: \$2.50 per foot
- (2) Overtime: \$3.50 per foot

If the total work cost estimate exceeds \$250.00, an advance deposit shall be required.

B. For relocation of the customer's facilities where relocation has been requested by the customer, and such relocation is the responsibility of the customer, the service charge shall be :

- (1) Regular: \$2.50 per foot
- (2) Overtime: \$3.50 per foot

If the total work cost estimate exceeds \$250.00, an advance deposit equal to the total estimated cost shall be required.

110.06 RATES. The rates for gas service for residential and commercial customers shall be as follows:

1. Customer Charge - \$7.00 per month.
2. All Ccf used per month - \$0.65178 Ccf or fraction thereof.

110.07 SPECIAL RATES. The Council is hereby granted authority to set special rates for certain customers whose consumption of gas is unusual in periodic demand, irregular usage, delivery point, amount used or pressure delivery. The rate charged these customers shall be determined upon the amount of gas consumed under the circumstances.

110.08 RATE ADJUSTMENT. If any rate applicable to natural gas purchased by the Municipal Gas Plant is increased or decreased, under the jurisdiction of a duly constituted regulatory body, and such increase or decrease in rates results in an increase or decrease in the average unit cost of gas purchased by the Municipal Gas Plant, for the requirements of the residential and commercial gas customers, the charge per Ccf for the gas supplied in each subsequent monthly billing (beginning not earlier than the effective date of such increase or decrease) shall be decreased and may be increased accordingly by the amount of each full multiple or fraction thereof, or 0.01 cents per Ccf of the increase or decrease respectively in the average unit cost of gas purchased.

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CHAPTER 111

TELEPHONE FRANCHISE

111.01 Franchise Granted

111.02 Police Power

111.01 FRANCHISE GRANTED. Permission and authority are hereby granted, on a month-to-month basis, to the Montezuma Mutual Telephone Company, its successors or assigns, to acquire, construct and maintain in the incorporated limits of the City, as the same now is or may hereafter be extended or located, the necessary facilities for the receiving and transmitting of messages, or other electronic communications, by telephone, telegraph or other means, using wires, cables, carrier, microwave and/or electronic and/or other methods, for public and private use, and to sell and furnish telephone, telegraph or other communication service to the City and its inhabitants, for all purposes and to construct and maintain along, upon, across or under the streets, highways, avenues, alleys, bridges and other public places the necessary fixtures, apparatus and equipment for such purpose.

111.02 POLICE POWER. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

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CHAPTER 112

CABLE TELEVISION REGULATIONS

112.01 Definitions	112.13 Education and Government Connection
112.02 Franchise Required	112.14 Construction Standards
112.03 Significance of Franchise	112.15 Construction Timetable
112.04 Operation of Franchise	112.16 Conditions of Street Occupancy
112.05 Rights Reserved to the City	112.17 Preferential or Discriminatory Practices Prohibited
112.06 Applications for Franchise	112.18 Subscriber Privacy
112.07 Acceptance and Effective Date of Franchise	112.19 Transfer
112.08 Termination of Franchise	112.20 Compliance with Laws
112.09 Franchise Payment	112.21 Quality of Signal
112.10 Liability and Indemnification	112.22 Capacity and Programming
112.11 Performance Bond	112.23 Permission From Schools
112.12 Fees, Rates and Charges	

112.01 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words, and derivations have the meanings given herein.

1. “Annual gross revenues” means all revenues received by the Grantee, its affiliates or subsidiaries from and in connection with the operation of the cable television system in the City and includes revenues from all sources including, without limitation, revenues from advertising, channel leasing, data transmission and per-program charges and any other charges not specifically prohibited by the FCC or a court of competent jurisdiction, in addition to the subscriber’s monthly payments.
2. “Cable television system” means any facility that, in whole or in part, receives, directly or indirectly, over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations or which is originated by itself and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
3. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
4. “Commence operation” means that sufficient distribution facilities have been installed so as to permit the offering of full network services to at least 25 percent of the dwelling units located within the designated service area.
5. “FCC” means the Federal Communications Commission, and any legally appointed or elected successor.
6. “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.
7. “Franchise payment” includes all charges imposed for a franchise whether the object be regulation, revenue or one-time reimbursement of costs incurred by the City in the award of the franchise.
8. “Grantee” means the person granted a franchise by an election. When the context so requires, the term grantee means and includes the grantee, its officers, agents, employees, servants and independent contractors thereof and all persons including, but not limited to, subsidiaries, parents, or affiliate companies, associations or organizations having any rights, powers, privileges, duties, liabilities or obligations, under this

chapter, and under the franchise ordinance, collectively called the “franchise,” and also includes all persons having or claiming any title to or interest in the system, whether by reason of the franchise itself directly or by interest in a subsidiary, parent or affiliate company, association or organization by any subcontract transfer, assignment, management agreement, or operating agreement or an approved assignment or transfer resulting from a foreclosure of a mortgage security agreement, or whether otherwise arising or created.

9. “Private property” means all property, real, personal, or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

10. “Property of the Grantee” means all property, real, personal, or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

11. “Public property” means all property, real, personal, or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

12. “Sale” includes any sale, exchange, barter or offer for sale.

13. “Service area” means that geographical area within the incorporated limits of the City.

14. “Street” includes all streets, roadways, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, easements, rights-of-way or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated by law.

15. “Subscriber” means any person, firm, company, corporation or association receiving either “basic service” or “additional service” from the Grantee under the schedule of charges filed with and approved by the City.

112.02 FRANCHISE REQUIRED.

1. Franchise Required. No person, firm, company, corporation or association shall construct, install, maintain or operate within any public property of the City any equipment or facilities for the distribution of television signals or radio signals or other intelligence, either analog or digital, over a cable television system to any subscriber unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect.

2. Review of Qualifications. Specific permission to operate a cable television system under the provisions of this chapter may be granted by the Council to any Grantee after a review of the legal, character, financial, technical qualifications and the adequacy and feasibility of the Grantee’s construction arrangements and after the Council has approved the Grantee’s qualifications as a part of a public proceeding affording due process.

3. Duration of Franchise. Upon filing by the Grantee of the proper acceptance, the bond and the required insurance and security fund, the franchise shall take effect as provided in Section 112.07 and shall continue in full force and effect for a term of 15 years.

112.03 SIGNIFICANCE OF FRANCHISE.

1. Franchise Nonexclusive. Any franchise granted hereunder by the City shall not be exclusive and the City reserves the right to grant a similar franchise to any person, firm, company, corporation, or association at any time.
2. Franchise Amendable. The scope of any franchise granted hereunder shall be deemed amendable from time to time to allow the Grantee to innovate and implement new services and developments; provided, however, no such services or developments shall be implemented without the express prior approval of the Council.
3. Privileges Must be Specified. No privilege of exemption shall be inferred from the granting of any franchise unless it is specifically prescribed. Nothing in this chapter shall be deemed to require the granting of a franchise when in the opinion of the Council it would not be in the public interest to do so.
4. Authority Granted. Any franchise granted hereunder shall give to the Grantee the right and privilege to construct, erect, operate, modify and maintain, in, upon, along, above, over and under streets, as defined in Section 112.01 herein, which have been or may hereafter be dedicated and open to public use in the City, towers, antennas, poles, cables, electronic equipment, and other network appurtenances necessary for the operation of a cable television system in the City; subject to the requirements of Section 112.16 of this chapter.
5. Previous Rights Abandoned. A franchise granted hereunder shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by a Grantee or any successor pertaining to the construction, operation, or maintenance of a cable communications system in the City. The acceptance of a franchise shall operate, as between Grantee and the City, as an abandonment of any and all such rights, privileges, powers, immunities, and authorities within the City. All construction, operation and maintenance by the Grantee of any cable system in the City shall be under the franchise and not under any other right, privilege, power, immunity, or authority.
6. Subject to Other Regulatory Agencies Rules and Regulations. The Grantee shall at all times during the life of any franchise granted hereunder be subject to all lawful exercise of the police power by the City and other duly authorized regulatory State and federal bodies and shall comply with any and all ordinances which the City has adopted or shall adopt applying to the public generally and to other grantees.
7. Pole Use Agreements Required. Any franchise granted hereunder shall not relieve the Grantee of any obligation involved in obtaining pole or conduit use agreements from the gas, electric and the telephone companies, or others maintaining poles or conduits in the streets of the City, whenever the Grantee finds it necessary to make use of said poles or conduits.
8. No Right of Property. Anything contained herein to the contrary notwithstanding, the award of any franchise hereunder shall not impart to the Grantee any right of property in or on City-owned property.
9. Franchise Binding. Anything contained herein to the contrary notwithstanding, all provisions of this chapter and any franchise granted shall be binding upon the Grantee, its successors, lessees, or assignees.

112.04 OPERATION OF FRANCHISE.

1. Operations to be in Accordance With Rules. The Grantee shall maintain and operate its Cable Television System in accordance with the rules and regulations of the Federal Communications Commission, the statutes of the State of Iowa and/or the ordinances of the City as they are incorporated herein or may be promulgated.
2. Interruption of Service; Notification. The Grantee, whenever it is necessary to interrupt service over the cable television system for the purpose of network maintenance, alteration or repair, shall do so at such time as will cause the least amount of inconvenience to the subscribers, and unless such interruption is unforeseen and immediately necessary, the Grantee shall give reasonable notice thereof to the affected subscribers.
3. Business Office; Complaints. Grantee shall maintain an office or a designated agent within the City for the purpose of receiving, investigating, and responding to service complaints from subscribers. Grantee shall make every reasonable effort to resolve any and all complaints to the satisfaction of the subscriber. Upon receipt by it of any service complaint, the City will forward a copy to the Grantee or may take the question up by correspondence with the Grantee. Within such time as may be prescribed by the City, Grantee will be called upon to satisfy the complaint or advise the City of its refusal or inability to do so. If Grantee satisfies the complaint, it shall so notify the City, giving particulars of the action taken. The City will forward a copy of Grantee's notice of satisfaction to the complainant. If Grantee refuses or is unable to satisfy the complaint, it shall so notify the City, and the City will forward a copy of such notice to the complainant, with a statement of the procedure to be followed to further prosecute the complaint. When a complaint has not been satisfied, the complainant may file a formal complaint with the Council in the form and manner to be specified thereby. The complaint to the Council must be filed within 30 days from the date of the Grantee's notice of refusal or inability to satisfy the complaint. Upon receipt of a formal complaint, the Council, or its designated agent, shall ascertain the facts and shall have the power to enforce its decision, if against Grantee, by all actions hereunder, including the revocation of the franchise.
4. Records. Grantee shall keep complete records of accounts showing dates and payments received, and shall furnish an annual accounting by a certified public accountant to the City of the payment date as above provided. The Council shall have the right, power and authority to inspect the monthly service charge records of the Grantee at the premises of the Grantee during the business hours of any work day, or any other reasonable time and place provided the Grantee is given no less than seven days' notice.
5. Service Rules. Grantee shall have the right to prescribe service rules and regulations for the conduct of its business with its subscribers and service users, not inconsistent with the provisions of its franchise or with the rules and regulations of the Federal Communications Commission, and other applicable laws, rules and regulations. Grantee shall submit to the City the form of its service agreement between Grantee and its subscribers and channel users, shall furnish the City a full schedule of its charges to be paid by subscribers before soliciting for subscribers within the City, and shall furnish the City any amendments or alterations in the service agreement or schedule of charges.
6. Subscribers' Antennas. The Grantee shall not require the removal, or offer to remove or provide any inducements for removal of any potential or existing subscriber's antenna as a condition of provision of service.

7. Sale or Service of Television Receivers. Neither the Grantee during the period of the franchise nor any of its affiliated, subsidiary, parent organizations, officers or directors or stockholders holding five percent or more of outstanding stock of the Grantee shall, within the corporate limits of the City or within 10 miles in any direction, directly or indirectly, engage in the retail sale, renting, leasing, or repairing of radio or television receivers or their appurtenances, nor shall they require any subscriber to utilize the services of any specific television/radio service business for the repair or maintenance of the subscriber's receivers, either radio or television. This section shall in no way prohibit the sale, rental or service of converters necessary to the operation of the Cable Television System by the Grantee.

8. Upgrading of Facilities, Equipment and Service. The Grantee shall upgrade its facilities, equipment and service as subscribers' demands dictate so that its network is as advanced as the current state of technology and reasonable economic feasibility will allow.

112.05 RIGHTS RESERVED TO THE CITY.

1. Right of Amendment Reserved to City. The City may, from time to time, add to, modify or delete provisions of this chapter as it shall deem necessary in the exercise of its regulatory powers, provided that such additions or revisions are reasonable and do not place an undue financial burden on the Grantee. Such additions or revisions shall be made only after a public hearing for which the Grantee shall have received written notice at least 30 days prior to such hearing.

2. No Impairment of City's Rights. Nothing herein shall be deemed or construed to impair or affect, in any way to any extent, the right of the City to acquire the property of the Grantee through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted, and nothing shall be construed to contract away or modify or abridge, either for a term or in perpetuity, the City's right to eminent domain.

3. Grantee Agrees to City's Rights. The City reserves every right and power which is required to be reserved or provided by an ordinance of the City, and the Grantee by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or powers which have been or will be enacted or established.

4. City's Right of Intervention. The City shall have the right to intervene and the Grantee specifically agrees by its acceptance of the franchise not to oppose such intervention by the City in any suit or proceeding to which the Grantee is a party.

5. Powers of the City. Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

6. City's Transfer of Functions. Any right or power in, or duty imposed upon any elected official, officer, employee, department, or board of the City shall be subject to transfer by the City to any other elected official, officer, employee, department or board.

7. City's Right of Inspection. The City reserves the right during the life of any franchise granted hereunder, to inspect and supervise all construction or installation work performed subject to the provisions of this chapter and to perform network measurements to insure compliance with the terms of this chapter.

8. City's Right of Acquisition. Upon expiration of the term of the franchise, or revocation, or other termination as provided by law, or upon receipt of application for approval of any assignment of the franchise or upon change de facto control, the City shall have a right to purchase the cable television system as set forth in Section 112.08(3) herein.

9. City's Right of Network Installation. The City reserves the right during the life of any franchise granted hereunder, to install and maintain free of charge upon or in the poles and conduits of the Grantee any wire and pole fixtures necessary for municipal networks on the condition that such installation and maintenance thereof do not interfere with the operation of the Grantee.

112.06 APPLICATIONS FOR FRANCHISE. No franchise may be granted unless the applicant has successfully completed the application procedure in accordance with filing instructions promulgated by the City and paid a nonrefundable filing fee to the City of \$100.00 which sum shall be due and payable at the time with the submission of the application. All applicants must complete an application which shall include but not be limited to the following:

1. Name and Address of Applicant. The name and business address of the applicant, date of application and signature of applicant or appropriate corporate officers.

2. Description of Proposed Operation. A general description of the applicant's proposed operation, including but not limited to: business hours; operating staff; maintenance procedures beyond those required in the ordinance; management and marketing staff complement and procedures; and, if available, the rules of operation.

3. Signal Carriage. A statement of the television and radio services to be provided, including both off-the-air and locally originated signals.

4. Special Services. A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the Grantee for the public, municipal, and educational channels required to be made available by the provisions of this chapter.

5. Schedule of Charges. A statement of the applicant's proposed schedule of charges.

6. Corporate Organization. A statement detailing the corporate organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.

7. Stockholders. A statement identifying the number of authorized outstanding shares of applicant's stock including a current list of the names and current addresses of its shareholders holding five percent or more of applicant's outstanding stock.

8. Intra-Company Relationships. A statement describing all intra-company relationships of the applicant, including parent, subsidiary or affiliated companies.

9. Agreements and Understandings. A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person, firm, group or corporation with respect to any franchise awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.

10. Financial Statement. A copy of the financial statements for the two previous fiscal years.

11. Financial Projection. A five-year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets, and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma.
12. Financial Support. Suitable written evidence from a recognized financing institution, addressed to both the applicant and to the City, advising that the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to applicant if it is awarded a franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the acquisition and expenditure of such funds as are required to construct, install and operate the cable television system contemplated hereunder.
13. Construction Timetable. A description of system construction including the timetable for provision and extension of service to different parts of the City.
14. Technical Description. A technical description of the type of system proposed by the applicant, including but not limited to system configuration (i.e. hub, dual cable, system capacity, two-way capability, etc.).
15. Existing Franchises. A statement of existing franchises held by the applicant indicating when the franchises were issued and when the systems were constructed and the present state of the system in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.
16. Convictions. A statement as to whether the applicant or any of its officers or directors or holders of five percent or more of its voting stock have in the past 10 years been convicted of or has charges pending for any crime other than a routine traffic offense and the disposition of each such case.
17. Operating Experience. A statement detailing the prior cable television experience of the applicant including that of the applicant's officers, management and staff to be associated where known with the proposed Ordinance.
18. Supplementation to Applications. The City reserves the right to require such supplementary, additional or other information that the City deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the City.

112.07 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE.

1. Franchise Acceptance Procedures. Any franchise awarded hereunder and the rights, privileges and authority granted thereby shall take effect and be in force from and after the award thereof, provided that the Grantee shall file with the City the following:
 - A. A statement by the Grantee of the unconditional acceptance of the franchise, and
 - B. A certificate of insurance as set forth in Section 112.10(5).

- C. A performance bond in the penal sum of \$50,000 as set forth in Section 112.11 herein, and
 - D. Reimbursement to the City for the costs of publication of the franchise ordinance and the holding of the election connected therewith.
2. Grantee to Have no Recourse. The Grantee shall have no recourse whatsoever against the City for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or its regulation or from the City's exercise of its authority to grant additional franchises hereunder. This shall not include negligent acts of the City, its agents or employees which are performed outside the regulatory or franchise awarding authority hereunder.
3. Acceptance of Power and Authority of City. The Grantee expressly acknowledges that in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority of the City to grant this franchise.
4. Inducements Not Offered. The Grantee, by acceptance of any franchise awarded hereunder, acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or in behalf of the City concerning any term or condition of this franchise that is not included in this chapter.
5. Grantee Accepts Terms of Franchise. The Grantee acknowledges by the acceptance of this chapter and the franchise ordinance that it has carefully read its terms and conditions and it is willing to and does accept all the obligations of such term and conditions and further agrees that it will, not prior to substantial completion of the system, set up as against the City the claim that any provision of this chapter, and any franchise granted hereunder is unreasonable, arbitrary, invalid or void.
6. Incorporation of Proposals. The Grantee, by the acceptance of any franchise awarded hereunder, agrees that the matters contained in the Grantee's application for franchise and as stated in oral presentation, except as inconsistent with the FCC Rules and Regulations, law or ordinance, shall be incorporated into the franchise as though set out verbatim.

112.08 TERMINATION OF FRANCHISE.

1. Grounds for Revocation. The City reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:
- A. If the Grantee should default in the performance of any of its obligations under this chapter or the franchise, and fails to cure the default within 30 days after receipt of written notice of the default from the City.
 - B. If the Grantee should fail to provide or maintain in full force and effect, the performance bond, and liability and indemnification coverage as required in Sections 112.10 and 112.11 respectively.
 - C. If a petition is filed by or against the Grantee under the Bankruptcy Act or any other insolvency or creditors' rights law, State or federal, and the Grantee shall fail to have it dismissed.
 - D. If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of its assets.

- E. If the Grantee makes an assignment for the benefit of creditors.
 - F. If any court of competent jurisdiction, the FCC, or any State regulatory body by rules, decision, or other action determines that any material provision of the franchise documents, including this chapter, is invalid or unenforceable.
 - G. If the Grantee should violate any orders or ruling of any regulatory body having jurisdiction over the Grantee unless the Grantee is lawfully contesting the legality or applicability of such order or ruling.
 - H. If the Grantee fails to receive the necessary FCC or State certification unless such cause is directly attributable to an action or condition imposed by the City.
2. Procedure Prior to Revocation. Upon the occurrences of any of the events enumerated in subsection 1 of this section, the Council may, after hearing, upon 30 days' written notice to the Grantee citing the reasons alleged to constitute cause for revocation, set a reasonable time in which the Grantee must remedy the cause. If, during the 30-day period, the cause shall be cured to the satisfaction of the City, the City may declare the notice to be null and void. If the Grantee fails to remedy the cause within the time specified, the Council may revoke the franchise. In any event, before a franchise may be terminated, the Grantee must be provided with an opportunity to be heard before the Council.
3. Purchase of System by City. If the City determines not to reissue the franchise for reasons other than a material breach of the franchise or reasons unrelated to the performance of the franchise holder or upon receipt of an application for assignment of the franchise, or upon change of de facto control, the Grantee shall first offer the cable television system for sale to the City at a fair and just market value, which value shall include the fair market value of the system as a going concern including the franchise itself and the rights and privileges granted by the City. When a franchise is revoked pursuant to this section or expires and is not renewed because of a material breach of the franchise, the Grantee shall first offer the cable television system for sale to the City at a fair and just market value, which value shall not include any value for the franchise itself or for any of the rights or privileges granted by the City. In the event the determination of fair market value cannot be negotiated or determined, said value shall be determined by an impartial arbitration procedure pursuant to State law, wherein the Grantee and the City shall each choose an arbitrator and the arbitrators chosen shall choose the third and the valuation determined by said arbitrators shall be considered the fair market value at which the system will be offered to the City. The determination of the value of the system shall be decreased by the amount of any damages sustained by the City in connection with revocation or expiration, including, without limitation, payment made by the City to another person or entity to operate the cable television system for a temporary period after revocation. The cost of the arbitration procedures shall be shared equally by the City and Grantee. The City shall have 90 days to exercise the right of first refusal to purchase the network, said 90 days commencing on the day the fair market value of the system is determined either through negotiation or the arbitration procedure. If the City does not exercise its option to purchase, and the system is not sold to another operator who has obtained a franchise from the City in a reasonable period of time, the Grantee, upon request by the City, shall promptly remove all its plant, structures and equipment; provided, however, in the event the City determines not to exercise its right of first refusal, it shall not unreasonably refuse to renew or grant a cable television franchise during a reasonable interim period. While

transfer of the system and franchise is being negotiated, arranged or ordered, the Grantee may be required to continue service to the public unless for reasons beyond the control of the Grantee said operation will be economically unfeasible to the Grantee.

4. Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the company's removal of its equipment and appliances, without affecting the electric or telephone cables, wires, or attachments. The City shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance indemnity provided in Section 112.10 and the performance bond in Section 112.11 shall continue in full force and effect during the period of removal.

5. Restoration by City; Reimbursement of Costs. In the event of a failure by the Grantee to complete any work required by Subsection 4 above or any work required by City law or ordinance within the time established and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within 30 days after receipt of an itemized list of such costs or the City may recover such costs as provided in Section 112.11.

6. Lesser Sanctions. Nothing shall prohibit the City, in its rules and regulations, from imposing lesser sanctions or censures than revocation for violations of provisions of this chapter including the shortening of the franchise period for substantial and repeated violations.

7. Expiration; Extended Operation.

A. Upon the expiration of a franchise, the City may, by resolution, on its own motion or request of the Grantee, require the Grantee to operate the franchise for an extended period of time not to exceed six months from the date of any such resolution. All provisions of the franchise shall continue to apply to operations during an extension period. The City shall serve written notice at the Grantee's business office of intent to extend under this section at least 30 days prior to expiration of the original franchise or any extensions thereof.

B. Grantee shall submit to City its request for the renewal of the franchise beyond the original 15-year period not sooner than 12 months prior to the expiration of the franchise or later than six months before the expiration of the franchise.

112.09 FRANCHISE PAYMENT.

1. Filing Fee. Applicants for a franchise hereunder shall pay a nonrefundable filing fee to the City of \$100.00, which sum shall be due and payable at the time with the submission of the application.

2. Franchising Compensation. Grantees of a franchise hereunder shall provide an initial payment to the City in an amount equal to the direct costs of granting the franchise including but not limited to consultants' fees, which sum shall be due and payable concurrently with the Grantee's acceptance of the franchise, to offset the City's costs in the franchise awarding process.

3. Annual Franchise Payment. Grantees of a franchise hereunder shall pay to the City an annual fee in an amount equal to five percent of the annual gross revenues, as defined herein, in lieu of all other City's permits and fees, to be utilized by the City to

offset its regulatory and administrative costs and to maximize awareness and access capacity. This payment shall be in addition to any other payment owed to the City by the Grantee and shall not be construed as payment in lieu of municipal property taxes or other State, County or local taxes. This payment shall be made semiannually and due 45 days after the close of each six-month period.

112.10 LIABILITY AND INDEMNIFICATION.

1. **Indemnification of Franchise.** It shall be expressly understood and agreed by and between the City and any Grantee hereunder that the Grantee shall save the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand which the City may legally be required to pay as a result of the enactment of this chapter and the award of a franchise thereunder, except as such suit, judgment, execution, claim or demand may arise from the process of action of selection of a grantee or grantees for award of a franchise as provided herein.
2. **Indemnification of City in Franchise Operation.** It shall be expressly understood and agreed by and between the City and any grantee hereunder that the grantee shall save the City and its agents and employees harmless from and against all claims, damages, losses, and expenses, including attorney's fees sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever arising out of the installation, operation or maintenance of the cable television system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter and any franchise granted hereunder. This provision shall not apply to acts of the City, its agents or employees.
3. **Reimbursement of Costs.** The Grantee shall pay and by its acceptance of any franchise granted hereunder agrees that it will pay all expenses incurred by the City in defending itself with regard to all damages and penalties mentioned in subsections 1 and 2 above, except as such expenses may arise from the process. These expenses shall include all out-of-pocket expenses, such as consultant's or attorney's fees, and shall also include the reasonable value of any services rendered by the City Attorney and his/her staff or any other employee of the City.
4. **Public Liability Insurance.** The Grantee shall maintain and by its acceptance of any franchise granted hereunder agrees that it will maintain throughout the term of the franchise, any extensions thereto, or as required in Section 112.08(4) herein, a general comprehensive liability insurance policy naming as the additional insured the City, its officers, boards, commissioners, agents and employees, in a company approved by the Council and in a form satisfactory to the Council, protecting the City and all persons against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of Grantee under any franchise granted hereunder, in the amounts of:
 - A. \$1,000,000 for bodily injury or death to any one person, within the limit, however, of \$1,000,000 bodily injury or death resulting from any one accident, and
 - B. \$100,000 for property damage resulting from any one accident.
5. **Evidence of Insurance Filed with City Clerk.** All policies of insurance or certified copies thereof and written evidence of payment of required premiums, shall be filed and maintained with the City Clerk during the term of any franchise granted hereunder, or any renewal thereof.

6. No Waiver of Performance Bond. Neither the provisions of this chapter nor any insurance accepted by the City pursuant hereto, nor any damages recovered by the City thereunder shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under any franchise issued hereunder or for damages, either to the full amount of the bond or otherwise.

112.11 PERFORMANCE BOND. The Grantee shall maintain, and by its acceptance of any franchise granted hereunder, agrees that it will maintain through the term of the franchise, or any renewal or extension thereof or as required in Section 112.08(4), a faithful performance bond running to the City, with a good and sufficient surety or other financial guaranties approved by the Council, in the penal sum total of \$50,000 conditioned upon the faithful performance of the Grantee and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance or regulation governing the franchise, there shall be recoverable jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond. In addition, failure to meet construction deadlines as specified in Section 112.15, unless exempted under the provisions of Section 112.15(4), shall result in forfeiture of said bond.

112.12 FEES, RATES AND CHARGES.

1. Regulation of Rates by City. The rates and charges charged by the Grantee may be raised or lowered by the City if it finds, upon application of Grantee, the request of any party, or its own motion and in compliance with the procedure set forth herein, that a change in rates is necessary to further the public interest in quality cable television service. To allow an application for a change in rates or charges hereunder to be considered and acted upon, it shall be filed with the Council for approval. In connection with any application considered hereunder, the City or any interested party shall have the right to inspect the books and records of the Grantee at Grantee's office at reasonable times and upon reasonable notice. The inspection of such books and records shall be governed by the laws of the State of Iowa relating to public documents.

2. Acceptance of City's Authority to Regulate Rates. The Grantee shall agree, and by its acceptance of a franchise, specifically agrees to be subject to the City, or other regulatory bodies having competent jurisdiction to fix just, reasonable and compensatory rates.

3. Rates Subject to Other Regulations. The Grantee in submitting its request for approval of initial rates or any subsequent rates shall do so for all services to be performed to or for subscribers. If FCC Rules and Regulations, or any other applicable laws of regulations, shall subsequently determine that the City has jurisdiction over other services or service to be offered or performed, said rates shall be subject to approval by the City at that time.

112.13 EDUCATION AND GOVERNMENT CONNECTION. Grantee shall provide installation (which shall include all external wiring required for the building and all internal wiring required for the building and all internal wiring for the connection of one outlet) and cable services without charge to all public and private, primary and secondary schools and all municipally owned buildings located within the City. Service shall be provided on a color capable line and improvements shall be made as technology permits to serve properly the schools and municipal buildings.

112.14 CONSTRUCTION STANDARDS.

1. Compliance with Safety Codes. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all federal, State and local codes where applicable. Installation of the system shall be in accordance with the provisions of the *National Electrical Safety Code*, published by American National Standards Institute C2, 1981 edition. Installations on premises of customers shall be in accordance with the *National Electrical Code*, published by the National Fire Protection Association, 1981 Edition, with the provision that grounding shall be done in accordance with Section 820-22 (f) (5) (3) at the premises of all customers. This shall apply whether the service is overhead or underground. Other grounding as provided by Section 820-22 may be done in addition to that specified above, at the option of the Grantee.
2. Compliance with Aviation Requirements. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aeronautical Agency, the State Aeronautics Board governing the erection and operation of supporting structures or television towers, and all other applicable local or State codes and regulations.
3. Equipment Standards. Grantee's plant and equipment, including the antenna site, headend, distribution system, towers, structures, poles, wires, underground cable and appurtenances shall be installed in accordance with good engineering practices, and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the City may deem proper to make, or to unnecessarily hinder, or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of the *National Electrical Code* of the National Fire Protection Association and *National Electric Code* (outside work) and such applicable laws of the State of Iowa and applicable ordinances of the City which may now be in effect or enacted in the future. All installations shall be of a permanent nature, durable, and maintained in a safe, suitable and substantial condition, in a good order and repair.
4. Monitoring Tests. Grantee's cable television system shall meet technical standards of the rules and regulations of the Federal Communications Commission and Grantee shall perform the periodic tests and make the measurements specified in such rules. The system shall be so designed, engineered and maintained by Grantee so as not to interfere with the television and radio reception of residents of the City who are not subscribers to its services.

112.15 CONSTRUCTION TIMETABLE.

1. Permit Application. It is hereby deemed in the public interest that the system be extended as rapidly as possible to all residents within the City. Within ninety (90) days of the effective date of a franchise granted hereunder, the Grantee shall file with the appropriate authorities and utilities all initial papers and applications necessary to comply with the terms of this chapter including the application for franchise and any additions or amendments thereto and shall thereafter diligently pursue all such applications. After the Grantee has diligently pursued the acquisition of necessary pole attachment contracts, or other necessary easements, and where such necessary contracts have not been executed or easements obtained after a reasonable period of time as

determined by the City, the City may, at its discretion, provide assistance to insure the extension of the system to all residents.

2. Commencement of Construction. Within 180 days of the effective date of FCC certification, the Grantee shall initiate construction and installation of the cable television system. Such construction and installation shall be pursued with reasonable diligence.

3. Commencement of Operation. Within twelve months of the effective date of FCC certification, the Grantee shall "commence operation" within the meaning set forth in Section 112.01(4) of this chapter.

4. Delays and Extension of Time. The Council may in its discretion extend the time for Grantee, acting in good faith, to perform any act required hereunder. The time for performance shall be extended or excused, as the case may be, for any period during which Grantee demonstrates to the satisfaction of the Council that Grantee is being subjected to delay or interruption due to any of the following circumstances if reasonably beyond its control:

- A. Necessary utility rearrangements, pole change-outs or obtainment of easement rights.
- B. Governmental or regulatory restrictions.
- C. Labor strikes
- D. Lockouts
- E. War
- F. National emergencies
- G. Fire
- H. Acts of God

If FCC certification is not required for a franchise granted under this chapter, all time periods specified in Subsections 2, 3 and 4 of this section shall commence with the effective date of the franchise granted hereunder.

112.16 CONDITIONS OF STREET OCCUPANCY.

1. Approval of Proposed Construction. A grantee shall first obtain the approval of the City prior to commencing construction on the streets, alleys, public grounds or places of the City. Applications for approval of construction shall be in a form provided by the City.

2. Excavation Permits. A grantee shall not open or disturb the surface of any street, sidewalk, driveway, or public place for any purpose without first having obtained a permit to do so in the manner provided by ordinance. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public.

3. Changes Required by Public Improvements. A grantee shall, at its expense, protect, support, temporarily disconnect, relocate in other public place, any property of the grantee when required by the City by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, City-owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.

4. Joint Use; Poles; Undergrounding. The City hereby grants the right, privilege, and authority to grantee to lease, rent, or in any other manner obtain the use of poles with overhead lines, conduits, trenches, ducts, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the City, and to use such poles, conduits, trenches, ducts, lines and cables in the course of its business. Grantee shall install its cables on existing poles owned by other holders of public licenses and franchises within the corporate limits of the City whenever possible for the installation of its cable. When installation of cable on poles is not possible, or when the holders of another public license or franchise have installed underground cable, then in that event, unless the Council shall otherwise decide, the cable used by grantee shall be installed underground. Grantee shall only be allowed to erect its own poles upon receiving the permission of the Council to do so.

5. Facilities not to be Hazardous or Interfere. All wires, conduits, cables and other property and facilities of the grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the City. The grantee shall keep and maintain all its property in good condition, order and repair. The City reserves the right hereunder to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole by the Grantee. The Grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records as requested by the City under Subsection 4. A grantee shall not place poles or other equipment where they will interfere with the rights or reasonable convenience of adjoining property owners, or with any gas, electric, or telephone fixtures or with any water hydrants or mains. All poles or other fixtures placed in a street shall be placed in the right-of-way between the roadway and the property, as specified by the City.

6. Method of Installation. All wires, cables, amplifiers and other property shall be constructed and installed in an orderly and in a manner consistent with the trade. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering and safety considerations. All installations shall be underground in those areas of the City where public utilities providing telephone or electric utility facilities are above ground at the time of installation, the Grantee may install its service aboveground provided that at such time as those facilities are required to be placed underground by the City or are placed underground, the Grantee shall likewise place its services underground without additional cost to the City or to the residents of the City other than as may be granted under the provision of Section 112.12.

7. Requests for Removal or Change. The Grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of said building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given no less than 10 working days' notice of any move contemplated to arrange for temporary wire changes.

8. Authority to Trim Trees. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and other public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the company. All trimming is to be done under the supervision and direction of the City after the explicit, prior written notification and approval of the City and at

the expense of the Grantee. The Grantee may contract for such services; however, any firm or individual so retained shall receive City approval prior to commencing such activity.

9. Restoration or Reimbursement. In the event of disturbance of any street or private property by the Grantee, it shall, at its own expense and in a manner approved by the City and the owner, replace and restore such street or private property in as good a condition as before the work causing such disturbance was done. In the event the Grantee fails to perform such replacement or restoration the City or the owner shall have the right to do so at the sole expense of the Grantee. Payment to the City or owner for such replacement or restoration shall be immediate, upon demand, by the Grantee. All requests for replacement or restoring of such streets or private property as may have been disturbed must be in writing to the Grantee.

10. Office and Records in City. The Grantee shall at all times make and keep, at an office maintained by the Grantee in the City, full and complete plans and records showing the exact location of all cable television system equipment installed or in use in the streets or other public places of the City. The Grantee shall furnish the City a current map or set of maps, drawn to scale, showing all cable television system equipment installed and in place in streets and other public places of the City.

11. Emergency Removal of Plant. If, at any time, in case of fire or disaster in the City, it shall become necessary in the reasonable judgment of the City to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense provided that such repairs are not necessitated by negligent act of the City, in which case, cost for repairs shall be borne by the City.

12. Protection of Work. Any opening or obstruction in the streets or other public ways made by the Grantee in the course of the construction, operation, or removal of cable installation shall be guarded and protected at all times by the placement of adequate barriers, fences, or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Grantee shall whenever it is deemed necessary by the City Administrator install such steel plates as may be necessary to allow a public roadway to remain open while Grantee is in the course of the construction, operation or removal of cable television.

112.17 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

1. The Grantee shall not commit any of the following employment practices and agrees to prohibit the following practices in any contracts or subcontract entered into to effectuate the operation of the franchise.

A. To discharge from employment or refuse to hire any individual because of his or her race, color, religion, creed, sex, national origin, age, disability, marital status, or sexual orientation.

B. To discriminate against any individual in terms, conditions, or privileges of employment because of his or her race, color, religion, creed, sex, national origin, age, disability, marital status or sexual orientation.

In addition to the above, the Grantee shall comply with all applicable State, federal, and municipal laws concerning discriminatory and unfair practices.

2. Services to be Equally Available. The Grantee shall not refuse cable television service to any person or organization who requests such service for lawful purpose, nor shall a company refuse any person or organization the right to cablecast pursuant to provision of this chapter. The company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any unreasonable preference or advantage, or subject any person to any prejudice or disadvantage. The company shall take affirmative steps to disseminate the information concerning the availability of its services to all minority and other underrepresented groups. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscription to the system or other legitimate uses there; nor shall it be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classifications shall be entitled, provided such schedules have been filed with and approved by the City as provided in Section 112.12.

3. Fairness of Accessibility. The entire system of the Grantee shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios and other services to all citizens, businesses, public agencies, or other entities having a legitimate use for the system; and no one shall be arbitrarily excluded from its use; allocation of use, of said facilities shall be made according to the rules or decisions of regulatory agencies affecting the same.

112.18 SUBSCRIBER PRIVACY.

1. Regulation. It is unlawful for any firm, person, group, company, corporation, or governmental body to initiate or use any form, procedure or device for monitoring or procuring information or data generated from or by cable subscribers' terminals, without prior written valid authorization from each subscriber so affected. "Valid authorization" means written approval from the subscriber for a period of time not to exceed one year and shall not have been obtained from the subscriber as a condition of service. In any case the subscriber shall retain the right to deactivate his/her terminal. Nothing herein shall prevent the Grantee from monitoring for technical integrity. This subsection shall not prevent authorized individuals from obtaining information pursuant to a valid court order.

2. Subscriber Data. Neither the City, a grantee nor any other person shall, without prior written valid authorization from each subscriber so affected, provide any data identifying or designating subscribers; this includes but is not limited to subscriber lists. Any data so authorized will be made available to the authorizing subscriber in understandable fashion.

3. Subscriber Agreements. Any agreement or contract such as is necessary for subsection 1 and 2 above shall not be a part of any other contract or agreement and shall not be a condition of subscribing to the system.

4. Violations. Violation of this section shall be considered a separate offense for each 24-hour period the violation continues following notification or discovery.

112.19 TRANSFER.

1. Consent Prior to Transfer of Franchise. Any franchise granted hereunder shall be a privilege to be held for the benefit of the public by the Grantee. Said franchise cannot in any event, be sold, transferred, leased, assigned or disposed of in whole or part, either by forced or voluntary sale, merger, consolidation, mortgage, trust,

receivership or any other means without the prior consent of the City expressed by a Council resolution and then only under such conditions as the Council may establish.

2. **Consent Prior to Change of Control.** Prior approval of the Council shall be required where ownership or control of more than five percent of the voting stock of Grantee is acquired by a person or group of persons acting in concert, none of whom already own or control five percent or more of such right of control, singly or collectively. Transfer from a subsidiary to a parent corporation or vice versa shall not be considered as a change of control. Prior approval of the Council shall also be required from all changes in ownership or control by a person or group of persons acting in concert, who already own or control five percent or more of such right of control, singly or collectively.

3. **Mortgage or Pledge of Network.** Nothing in this chapter shall be deemed to prohibit the mortgage or the pledge of the network or any part thereof. However, any such mortgage or pledge shall be subject to and subordinate to the right of the City under this franchise or applicable laws.

112.20 COMPLIANCE WITH LAWS. Grantee shall at all times comply with all rules and regulations of the FCC or any duly authorized agency of the United States of America, and all laws duly enacted now or hereafter by the United States Congress or Iowa General Assembly. This chapter shall be conformed, within one year of date of adoption, to any and all rules and regulations relating to the permissible term of cable television franchises which may hereafter be adopted by the FCC. Grantee shall be required to conform to all present City codes, including but not limited to plumbing and electrical codes and any ordinance providing for the manner and method of cutting streets, excavations in the right-of-way, backfills, etc. Grantee shall restore all property of the City and of the inhabitants thereof to its original condition after the installation of either overhead or underground cable.

112.21 QUALITY OF SIGNAL. Grantee shall, during the period of its franchise, furnish reasonable, adequate and efficient cable television reception service to the residents of the City wherever possible, and Grantee shall maintain its system in reasonable repair and working order and provide adequate facilities for such maintenance. These requirements shall be temporarily suspended in the event of natural disaster or emergency conditions or other circumstances beyond the control of Grantee.

112.22 CAPACITY AND PROGRAMMING. Grantee shall provide as a part of its cable television service the signals of all television broadcast signals consistent with the rules and regulations of the Federal Communications Commission and all other applicable laws, rules, or regulations. Grantee may provide such automated video services and such audio services as it wishes and as are consistent with the terms of this chapter.

112.23 PERMISSION FROM SCHOOLS. Grantee shall not televise, tape, or in any way reproduce or show to the general public any school activity, either as a public service, or as a commercial activity, without the prior approval of the schools involved.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, 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 a liquor control license, a retail wine permit, or a retail 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 holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. **Sell**, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. **Sell** or dispense any alcoholic beverage on the premises covered by the license or permit, 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 liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer 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 123.150)

3. **Sell** alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under 19 years of age to enter any place of business of a person holding a license for on-site consumption of beer or alcoholic beverages where the selling of beer or alcoholic beverages constitutes more than 50 percent of the gross business transacted therein. (It is presumed that the sale of beer or alcoholic beverages by a holder of a liquor license or wine or beer permit constitutes more than one-half of said person's gross sales.) The following exception is allowed: any establishment holding a liquor license or wine or beer permit and offering meals may permit minors in the company of their parents or guardians to eat meals therein during the hours of 11:30 a.m. to 1:30 p.m. and 5:00 p.m. to 7:00 p.m.

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 authorized in said Chapter 99B.)

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

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

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

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

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

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

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

121.02 PERMIT REQUIRED.

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

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

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

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

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

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

(Code of Iowa, Sec. 453A.13 & 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 to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

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. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122
PEDDLERS AND SOLICITORS

122.01 Purpose	122.11 Notice
122.02 Definitions	122.12 Hearing
122.03 License Required	122.13 Record and Determination
122.04 Application for License	122.14 Appeal
122.05 License Fees	122.15 Effect of Revocation
122.06 License Issued	122.16 Rebates
122.07 Display of License	122.17 License Exemptions
122.08 License Not Transferable	122.18 Charitable and Nonprofit Organizations
122.09 Time Restriction	122.19 Bonds Required
122.10 Revocation of License	

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 and solicitors.

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.

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

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of \$25.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$50.00 per day.
2. Peddlers. (per person)
 - A. For one day..... \$ 50.00
 - B. For one week..... \$ 200.00
 - C. For up to six (6) months..... \$ 1,000.00
 - D. For one year or major part thereof..... \$ 5,000.00

122.06 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.

122.07 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.

122.08 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.

122.09 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 9:00 a.m. and 7:00 p.m.

122.10 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.11 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than 10 days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.12 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 \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Montezuma 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.
7. Community based churches, legions, hospitals and other similar organizations.
8. **Minor Businesses.** An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit 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.

122.19 BONDS REQUIRED.

1. Before a license under this chapter is issued, each applicant shall post a bond of one thousand dollars (\$1,000.00) with the Clerk. Such bond shall be conditioned to indemnify and pay the City for any penalties or costs occasioned by the enforcement of this chapter, and shall not be retired until after a lapse of one year from the expiration of each license.

2. Before a license under this chapter is issued, 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*.

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CHAPTER 123

JUNK DEALER'S LICENSE

123.01 License Required
123.02 License Application

123.03 Action by Council

123.01 LICENSE REQUIRED. It is unlawful for any person to engage in the business of a junk dealer in the City without first obtaining a license as herein provided. Any person who satisfies the conditions prescribed for a license and satisfies the Council that said person's operation will not endanger the public welfare, order, safety, health or morals is entitled to a license.

123.02 LICENSE APPLICATION. An application for a junk dealer's license shall be made in writing to the Clerk. The application shall include:

1. Name and address of the applicant;
2. The legal description by lot and block, or otherwise, of the property where it is proposed to conduct the business;
3. Consent to operate the business by at least 75 percent of the property owners within a radius of 300 feet of the premises upon which the business is proposed to be conducted. The consent to operate shall include:
 - A. The signature of each consenting property owner and date of signing, which shall be procured not more than 30 days prior to filing the application with the Clerk.
 - B. The legal description by lot and block, or otherwise, of the property of each property owner who has signed the consent.

123.03 ACTION BY COUNCIL. The Council shall at its first meeting after filing of the application, or as soon thereafter as possible, examine the application. If the Council finds that the application contains the consent requirements and that the business will be operated in compliance with all other requirements of this Code of Ordinances, the junk dealer's license shall be issued to the applicant.

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CHAPTER 124

GARAGE SALES

124.01 Definition

124.02 Restrictions on Garage Sales

124.03 Municipal Infraction

124.01 DEFINITION. For use in this chapter, “garage sale” means the sale or offering for sale the personal property of any person not otherwise prohibited by this Code, where such personal property is set out for public display in any open garage, yard or patio of any building or premises. This includes estate sales and multi-family sales.

124.02 RESTRICTIONS ON GARAGE SALES.

1. Hours of operation for garage sales are only between 7:00 a.m. until 8:00 p.m.
2. No more than three garage sales per year can occur during the hours of operation and duration allowed by this chapter.
3. The garage sales shall be allowed to operate no more than three consecutive days.

124.03 MUNICIPAL INFRACTION. Any violation of the provisions of this chapter shall be a civil infraction as provided in Chapter 3 of this Code of Ordinances.

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CHAPTER 135

STREET USE AND MAINTENANCE

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| 135.01 Removal of Warning Devices | 135.08 Burning Prohibited |
| 135.02 Obstructing or Defacing | 135.09 Excavations |
| 135.03 Placing Debris On | 135.10 Property Owner's Responsibility for Maintenance |
| 135.04 Playing In | 135.11 Failure to Maintain |
| 135.05 Traveling on Barricaded Street or Alley | 135.12 Dumping of Snow |
| 135.06 Use for Business Purposes | 135.13 Driveway Culverts |
| 135.07 Washing Vehicles | |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 321.369)

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

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

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

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

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

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

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

1. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the contractor/property owner.
4. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the contractor/ property owner.
5. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The contractor/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
6. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the contractor/property owner.
7. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the contractor and/or property owner. The contractor and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

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

property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

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

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

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

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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

[The next page is 639]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice, and Accumulations	136.12 Awnings
136.04 Property Owner's Responsibility for Maintenance	136.13 Encroaching Steps
136.05 City May Order Repairs	136.14 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.15 Fires or Fuel on Sidewalks
136.07 Permit Required	136.16 Defacing
136.08 Sidewalk Standards	136.17 Debris on Sidewalks
136.09 Barricades and Warning Lights	136.18 Merchandise Display

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside

the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length.
 - B. On all business streets surrounding the courthouse square, the sidewalks shall extend from the lot line to the curb line, except that the walk constructed along the north side of Block 17 in the original plat of the City shall be six feet in width and shall be constructed next to and adjacent to the curb.

- C. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) two feet from the property line, unless the Council establishes a different distance due to special circumstances.
 7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
 9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
 10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Notice of Vacation Hearing
137.03 Findings Required

137.04 Disposal of Vacated Streets or Alleys
137.05 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.03 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

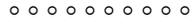
1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.04 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.05 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])



CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Montezuma, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF MONTEZUMA, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147

FIRE LIMITS

147.01 Fire Limits
147.02 Building Materials
147.03 Permit

147.04 Nuisance
147.05 Removal of Buildings

147.01 FIRE LIMITS. For the purpose of this chapter, the following limits shall be known and are hereby established as the fire limits of the City, and shall include all that portion of the City described as follows:

Commencing at the southwest corner of Block Seven in the City; thence running north to the alley in the middle of said Block Seven; thence east to Third Street; thence north to Washington Street; thence east to Fifth Street; thence south to the alley in Block Eighteen; thence west to Second Street; thence north to the place of beginning.

147.02 BUILDING MATERIALS. Walls of all buildings erected within the fire limits shall be of construction materials and methods that meet the hour rating and setback requirements set out in this chapter.

1. All exterior walls adjacent to an occupiable property or a City alley shall be constructed to meet wall opening requirements as outlined, according to occupancy, in Table No. 5-A of Chapter 5 of the *Uniform Building Code*, 1985 Edition.
2. All exterior walls of buildings shall be constructed to maintain the structural integrity of the wall in relationship to the height of the wall and shall include all necessary pilasters or columns to meet and overcome the height deficiencies of the wall.
3. All exterior walls or division walls of buildings shall be of sufficient thickness to support the load to be carried, and in all cases shall not be less than the following:
 - A. The walls of buildings one story high without basement shall be not less than 12 inches thick under the floor joists of buildings with crawl spaces and not less than eight inches thick in buildings with concrete slab on grade floor.
 - B. The walls of one story and basement buildings shall be not less than 12 inches thick under the floor joists.
 - C. The walls of two story and basement buildings shall be not less than 12 inches thick for the first story and basement.
 - D. The walls of three story and basement buildings shall be not less than 16 inches thick for basement and 12 inches for first and second stories.
4. All cornices, pediments, finials and skylight frames on buildings within the fire limits shall be galvanized iron or other non-combustible material. Skylights shall be in accordance with the *Uniform Building Code*, 1985 Edition.
5. All gutters and downspouts shall be of metal.
6. All party walls extending to the top of buildings shall be continued through and above the roof for at least two feet at its lowest place.

7. All openings in alleys must be provided with metal fire shutters or metal fire doors with a one-hour U.L. label or equivalent rating. All openings in party walls of different occupancies or owners shall have a class A automatic fire door.
8. The ends of all wood floor, ceiling and roof beams entering a party wall from opposite sides shall be staggered so that at least eight inches of solid masonry shall separate them.
9. No building shall exceed the maximum allowable floor space per story, as outlined by Chapter 5, Table No. 5-C of the *Uniform Building Code*, 1985 Edition, for the proposed occupancy and type of construction.

147.03 PERMIT. No buildings or structures shall be erected or repaired within said fire limits without a permit from the Mayor. The Council will make final approval of each permit based on the recommendations presented by the Fire Department inspecting officer.

147.04 NUISANCE. Whenever any building within said fire limits has reached such a state of decay or its physical condition has become such as to make it unsafe, or if it shall have been damaged by fire or other cause to such an extent that to repair it would be practically to rebuild it, then said building shall not be repaired or rebuilt except in compliance with Section 147.02 of this chapter. No building shall be increased in size except in compliance with the provisions of this chapter.

147.05 REMOVAL OF BUILDINGS. Any person who erects any building within the fire limits of the City, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within 30 days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within 10 days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

CHAPTER 148

SWIMMING POOL ENCLOSURES

148.01 Definition

148.02 Enclosure of Swimming Pool

148.03 Gates

148.04 Applicability

148.01 DEFINITION. The term “swimming pool” as used in this chapter means any artificial body of water with a depth of 18 inches or more.

148.02 ENCLOSURE OF SWIMMING POOL. Every outdoor swimming pool shall be completely surrounded by a fence or wall not less than six feet, constructed from ground level to this required height, and at least four feet from each side of the pool. Such fence or wall shall be non-climbable and shall be constructed sufficiently strong and of such structural design as to make the pool inaccessible to small children. There shall not be a distance greater than 10 feet between fence posts. The provisions of this section are applicable to all types of swimming pools, whether permanent or temporary in nature, if said pool is more than 18 inches in depth and the water is left in said pool more than 24 hours.

148.03 GATES. All gates or doors opening to the swimming pool shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed and locked at all times when not in actual use.

148.04 APPLICABILITY. The requirements for enclosure and a gate or door are applicable to swimming pools whether previously constructed or constructed in the future.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c & 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 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

BUILDING AND LAND USE REGULATIONS

155.01 Purpose	155.13 Restricted Residence District
155.02 Building Official	155.14 Prohibited Use
155.03 Approval Required	155.15 Exceptions
155.04 Application	155.16 Protest
155.05 Fee	155.17 Notice Requirements
155.06 Completion of Existing Buildings	155.18 Front Yard Requirements
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155.08 Action by Council	155.20 Rear Yard Requirements
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155.10 Condition of the Work	155.22 Fences
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155.12 Application Void	155.24 Abatement of Violation

155.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the erecting and altering of buildings in the City, as well as the use and occupancy of such buildings.

(Code of Iowa, Sec. 364.1)

155.02 BUILDING OFFICIAL. The City Administrator is the Building Official and is responsible for the administration and enforcement of this chapter.

155.03 APPROVAL REQUIRED. No building or other structure shall be erected or altered within the City without first receiving approval therefor. Approval is required for work such as new buildings, additions, patios, decks, porches, garages, accessory buildings, or for work that would change the outside dimensions of an existing building. Approval is not required for interior remodeling, roofing, window replacement or siding a building. The construction of a fence does not require prior approval, but the construction of such fence shall comply with standards established in this chapter.

155.04 APPLICATION. Application shall be made in writing, filed with the Building Official and contain the following information:

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, including such floor plans, sections, elevations and structural details, as the Building Official may require. There shall also be filed a diagram or sketch in a form and size acceptable to the Building Official with all dimensions figured, showing accurately the size and location of the lot to be built upon, and the location and size of the building or structure to be erected or altered.

155.05 FEE. An application fee in the amount of \$10.00 shall be paid to the City. In the event that work has commenced without first obtaining approval, the applicant shall be subject to a \$100.00 fine for each day that any work is performed.

155.06 COMPLETION OF EXISTING BUILDINGS. Nothing contained in this chapter shall require any change in the plans, construction or size of a building for which construction was started before the effective date of this chapter.

155.07 APPLICATION APPROVED. It is the duty of the Building Official to examine applications within a reasonable time after filing. If, after examination, the Building Official finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, the Building Official shall forward findings to the Council for its approval or disapproval.

155.08 ACTION BY COUNCIL. After receiving the findings of the Building Official and holding a public hearing on the application, the Council shall either approve or disapprove the application. If disapproved, the Council shall state its reasons for disapproval and notify the applicant of same. If approved, the Council shall instruct the Building Official to notify the applicant of such approval and place a copy of the approved application on file in City Hall.

155.09 RESTRICTIONS. No permit for the erection or alteration of a building or similar structure shall be granted unless it definitely appears that such erection or alteration shall not cause or be the source of the following:

(Code of Iowa, Sec. 414.24)

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.
7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
8. Congestion. Any undue gathering, congregating, parking of cars or undue congestion of people or traffic.
9. Other. Any effect that will be obnoxious, offensive, dangerous, or injurious to the health, welfare, and safety of citizens.

155.10 CONDITION OF THE WORK. All work performed shall conform to the approved application and plans. The location of all new construction as shown on the approved plan shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plan has been filed and has been used as the basis for approval, unless a revised plan showing the proposed change in conditions shall have been filed and approved, provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

155.11 REVOCATION. The Building Official may revoke an approved application issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the approval was based.

155.12 APPLICATION VOID. The approved application becomes null and void if work or construction authorized is not commenced within one hundred eighty (180) days, or if construction or work is suspended or abandoned for a period of one hundred twenty (120) days at any time after work is commenced, or if the work is not completed within the time frame specified in the approved application. Extensions to these time frames may be granted by an affirmative vote of three-fourths ($\frac{3}{4}$) of all of the members of the Council.

155.13 RESTRICTED RESIDENCE DISTRICT. The following area is hereby defined and established as a restricted residence district:

All that area lying within the corporate limits of the City.

155.14 PROHIBITED USE. No building or other structure, except residences, schoolhouses, churches, and other similar structures, shall be erected, altered, used, or occupied within the restricted residence district as defined herein without first receiving from the Council a special use permit. No such special use permit shall be issued without the affirmative vote of three-fourths of all of the members of the Council.

(Code of Iowa, Sec. 414.24)

155.15 EXCEPTIONS. The provisions of the preceding section shall have no application to any business, store, shop, or factory existing and in operation in a restricted residence district on the effective date of the ordinance adopting the 2002 Code of Ordinances except in the matter of reconstruction, alteration or change in use of the structure.

155.16 PROTEST. No special use permit shall be granted when 60 percent of the residential real estate owners in the restricted residence district who are located within 600 feet of the proposed building or occupancy object thereto, except by a unanimous vote of all of the members of the Council.

155.17 NOTICE REQUIREMENTS. Whenever a restricted residence district is established or its boundaries changed, a public hearing must be held, notice of which shall be given at least seven days in advance of the hearing and in the manner prescribed in Section 18.05 of this Code of Ordinances. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

(Code of Iowa, Sec. 414.24)

155.18 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than 10 feet (measured from the front lot line), except as follows:

(Code of Iowa, Sec. 414.24)

1. **Between Existing Buildings.** Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings on the two sides, or
2. **Adjacent to Existing Building.** Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only within the same block, such building may be erected as close to the street as a line drawn from the closest front corner of that building to a point 10 feet back from the front lot line measured at the center of the lot on which the proposed building is to be erected.

155.19 SIDE YARD REQUIREMENTS. Within the restricted residence district no building shall be erected closer than five feet to either side lot line (measured from the side lot line to the outer most edge of construction).

(Code of Iowa, Sec. 414.24)

155.20 REAR YARD REQUIREMENTS. Within the restricted residence district there shall be a rear yard provided for each principal building of not less than five feet, or two feet if the property line adjoins an alley (measured from the rear lot line to the outer most edge of construction).

(Code of Iowa, Sec. 414.24)

155.21 MINIMUM STANDARDS OF PRINCIPAL STRUCTURE. No dwelling shall be erected, placed or occupied within the restricted residence district unless such dwelling shall have a minimum dimension of 22 feet measured at the narrowest point of such dwelling. Said dimension shall be exclusive of attached garages, porches or other accessory structures. All principal structures shall be placed on a permanent frost-free foundation.

155.22 FENCES.

1. Materials. Fences shall be constructed of material commonly used for landscape fencing such as masonry block, lumber, chain-link, wrought iron or natural plantings, but shall not include corrugated sheet metal or salvage material. The owner of a fence shall provide and maintain a two-foot setback from adjoining property for the purpose of fence maintenance access.

2. Placement. Fences in which the openings between the materials of which the fence is constructed represent less than 70 percent of the total surface may be erected to a height not exceeding four feet along the boundaries of a lot, except that no such fence shall be erected within 30 feet of the intersection of two street lines. Wire fences and other fences in which the openings between the materials of which the fence is constructed represent more than 70 percent of the total fence area may be erected to a height of six feet, except within 30 feet of the intersection of two street lines.

155.23 CERTIFYING ORDINANCES. Within 15 days of the effective date of the adoption of any amendments to the provisions of this chapter, the Clerk shall certify such amendment to the County Recorder.

(Code of Iowa, Sec. 380.11)

155.24 ABATEMENT OF VIOLATION. Any building or structure erected, altered, used or occupied in violation of this chapter shall be determined a nuisance, and the same may be abated by the City or by any property owner within said district in the manner provided for the abatement of nuisances, or enforced as a municipal infraction.

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CHAPTER 156

BUILDING PROPERTY MAINTENANCE CODE

156.01 Purpose

156.02 Definitions

156.03 Authority for Enforcement

156.04 Interference with the Property Maintenance
Official

156.05 Nuisances

156.06 Notice to Abate

156.07 Emergency Abatement Measures

156.08 Municipal Infraction

156.01 PURPOSE. The purpose of this chapter is to designate the responsibilities of persons for maintenance of structures, equipment, and exterior property within the City, to define nuisances as a result of the failure to perform such maintenance, and to provide for the abatement of such nuisances in order to provide for the safety and preserve the health and welfare of the citizens of the City.

156.02 DEFINITIONS. For the purpose of this chapter, the following terms are defined:

1. “Blighted area” is defined as set forth in Section 403.17 of the *Code of Iowa*.
2. “Vermin” means any of various insects, bugs, or small animals regarded as objectionable because they are destructive, disease carrying, etc.

156.03 AUTHORITY FOR ENFORCEMENT. The City Property Maintenance Official designated by the City shall be responsible for the enforcement of this chapter and shall have all the necessary authority to carry out such enforcement.

156.04 INTERFERENCE WITH THE PROPERTY MAINTENANCE OFFICIAL. No person shall interfere with the Property Maintenance Official while engaged in the enforcement of this chapter.

156.05 NUISANCES. A failure to satisfy any of the following provisions shall constitute a nuisance:

1. General Maintenance. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties protected from blighting influences.
2. Rodent and Vermin Harborage. All structures, equipment, and exterior property shall be kept free from rodent and vermin harborage and infestation. Where rodents and vermin are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent and vermin harborage and prevent re-infestation.
3. Accessory Structures. All accessory structures, including detached garages, fences, and walls shall be maintained structurally sound and in good repair.
4. Protective Treatment. All exterior surfaces, including (but not limited to) doors, door and window frames, cornices, porches and trim, shall be maintained in good

condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight.

5. Foundation Walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and vermin.

6. Exterior Walls. All exterior walls shall be maintained plumb, free from cracks, holes, breaks, and loose or rotting materials, and maintained weatherproof and properly surface-coated where required to prevent deterioration, utilizing properly installed exterior siding.

7. Roofs and Drainage. All roofs and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair, with proper anchorage and free from obstructions.

8. Stairways, Decks, Porches, and Balconies. Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

9. Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

10. Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

11. Basement Hatchways. Every basement hatchway shall be maintained to prevent entrance of rodents, vermin, and rain and surface drainage water.

12. Structural and General Maintenance. The outside building walls shall not have any holes, loose boards, or any broken, cracked, or damaged finish, which admit rain, cold air, dampness, rodents, insects or vermin. Every dwelling shall be so maintained as to be weather-tight and watertight. Basements, cellar and crawl spaces shall be free of moisture resulting from seepage and dampness. Basement and cellar floors will be paved with stone or concrete not less than four inches thick and maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks and other hazards. All parts of the premises shall be maintained so as to prevent infestation. All parts of the dwelling shall be kept in a clean and sanitary condition, free of nuisance and free from health, safety and fire hazards. All boards and wood, including floor boards, sub-floors, joists, bridging and all other boards in any interior or exterior floor, wall, roof or other part of the structure, shall be maintained to be free of cracks, termite damage or rot. Any damaged members shall be replaced.

156.06 NOTICE TO ABATE. Upon discovery of any violation of this Code of Ordinance, the City shall, within five days, initiate abatement procedures as outlined in this Code of Ordinances.

156.07 EMERGENCY ABATEMENT MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the Property Maintenance Official any nuisance is an immediate and imminent threat to life and property, the Property Maintenance Official may, with or without prior notice as required within, order the nuisance abated and costs assessed against the property for collection in the same manner as a property tax. However, prior to such assessment, the City shall give the property owner notice as provided by the *Code of Iowa* and this Code of Ordinances.

156.08 MUNICIPAL INFRACTION. The City may, in the alternative, prosecute any violation of this chapter as a civil municipal infraction and seek the imposition of the court time, costs, and court costs for abatement of any violations.

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CHAPTER 157

GENERAL PROPERTY MAINTENANCE CODE

157.01 Purpose

157.02 Applicability

157.03 Maintenance of Exterior of Premises

157.04 Notice to Abate

157.05 Emergency Abatement Measures

157.06 Municipal Infraction

157.01 PURPOSE. The purpose of this chapter is to protect the public health, safety, and welfare by establishing minimum standards governing the maintenance, appearance, and condition of residential and nonresidential premises, to fix certain responsibilities and duties upon owners and operators, and distinct and separate responsibilities and duties upon occupants.

157.02 APPLICABILITY. Every residential, nonresidential, or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business, or industrial occupancy shall comply with the provisions of this chapter, whether or not such building has been constructed, altered, or repaired before or after the enactment of this chapter.

157.03 MAINTENANCE OF EXTERIOR OF PREMISES. The exterior of the premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of the occupant, pedestrians, and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It is the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, and debris.
2. Dead and dying trees and limbs or other natural growth that, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.
3. Loose and overhanging objects, and accumulations of ice and snow that, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof.
4. Holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow, and excretion of pets and other animals on paths, walks, driveways, parking lots, and parking areas, and other parts of the premises that are accessible to and used by persons on the premises shall constitute a danger to persons in the vicinity. Holes and excavations shall be filled and repaired, walks and steps replaced, and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery.
5. Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.
6. Any source of infestation by insects, pests, or rodents shall constitute a danger to persons in the vicinity.

7. Foundation walls shall be kept structurally sound, free from defects and damage, and capable of bearing imposed loads safely.

8. Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects, and so maintained as to perform capably at all times the functions for which they are designed. Chimneys, flues, gas vents, or other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.

9. Exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair and free from defects.

10. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property.

157.04 NOTICE TO ABATE. Upon discovery of any violation of this chapter, the City shall within five days initiate abatement procedures as outlined in this Code of Ordinances.

157.05 EMERGENCY ABATEMENT MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the Property Maintenance Official any nuisance is an immediate and imminent threat to life and property, the Property Maintenance Official may, with or without prior notice as required within, order the nuisance abated and costs assessed against the property for collection in the same manner as a property tax. However, prior to such assessment, the City shall give the property owner notice as provided by the *Code of Iowa* and this Code of Ordinances.

157.06 MUNICIPAL INFRACTION. The City may, in the alternative, prosecute any violation of this chapter as a civil municipal infraction and seek the imposition of the court's time, costs, and court order for abatement of any violations.

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CHAPTER 158

MAINTENANCE OF VACANT AND/OR FORECLOSED PROPERTIES

158.01 Purpose

158.02 Definitions

158.03 Registration Requirements

158.04 Security Requirements

158.05 Maintenance Requirements

158.06 Enforcement

158.07 Violations

158.01 PURPOSE. The purpose of this chapter is to protect and preserve the public health, safety, security, and enjoyment of the use of property located within the City by residents, visitors, and businesses by: (i) requiring all residential and commercial property owners or titleholders, including lenders and trustees, to have their vacant, foreclosed properties registered with the City, if the property registration information has not already been made available to the City through other means; and (ii) regulating the security and maintenance of residential and commercial vacant, foreclosed properties to prevent blighted and unsecure residences and buildings. The City Council finds that the occurrence of foreclosures may lead to buildings and structures becoming targets for criminal activity. The Council also finds that foreclosed buildings and structures that remain unoccupied for months or even years are more likely to experience multiple violations of the building, fire, house, and nuisance municipal codes. The City Council further finds that vacant and foreclosed properties are likely to negatively impact surrounding neighborhoods and business districts. Based on these findings, the City Council has deemed it necessary to enact the following regulations for the City.

158.02 DEFINITIONS. The following words, terms, and phrases, when used in this chapter, have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

1. “Accessible property” means a property that is accessible through a compromised, breached, or broken gate, fence, or other entry point.
2. “Accessible structure” means a structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.
3. “Beneficiary” means a lender, designee, nominee, or servicer under a note secured by a deed of trust or mortgage.
4. “Commercial building” means a building used for the barter, exchange, sale, service or trade of goods, materials, or services, either tangible or intangible for financial, material, or monetary gain.
5. “Days” means consecutive calendar days.
6. “Deed of trust” means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.
7. “Deed in lieu of foreclosure or sale” means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

8. "Default" means the failure to fulfill a contractual obligation, monetary or conditional.
9. "Enforcement Official" means the City Administrator, the Building Official, the Fire Chief, and/or any of the City Department Officials, including code enforcement officers, who are responsible for enforcing the provisions of this chapter.
10. "Evidence of vacancy" means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk, or debris; the absence of window coverings such as curtains, blinds, or shutters; the absence of furnishings or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents, and government employees that the property is vacant.
11. "Foreclosure" means procedure whereby property pledged as security for a debt is sold to pay the debt in the event of default in payments or terms.
12. "Local" means located within 60 road or driving miles distance of the subject property.
13. "Mortgage" means an instrument by which a borrower pledges certain real property or collateral as guarantee for the repayment of a loan.
14. "Mortgagee" means the lender in a mortgage loan transaction.
15. "Mortgagor" means the borrower in a mortgage loan transaction.
16. "Notice of default" means a notice issued pursuant to the applicable real estate security document or required by law that a default has occurred under a deed of trust or mortgage.
17. "Out-of-State beneficiary" means a beneficiary who does not have a physical presence in the State of Iowa.
18. "Owner" means any person, partnership, association, corporation, fiduciary, or other legal entity having a legal or equitable title or any interest in real property.
19. "Owner of record" means the person holding recorded title to the property at any point in time when official records are produced by the County Recorder's Office.
20. "Property" means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.
21. "Registered representative" means the person designated by a beneficiary as the beneficiary's representative of the purpose of accepting notice, service, and summons on behalf of the beneficiary and for otherwise ensuring compliance with this Code of Ordinances.
22. "Residential building" means any improved real property or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and includes the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted or zoned for such use.

23. "Securing" means such measures as may be directed by an Enforcement Official that assist in rendering the real property inaccessible to unauthorized persons, including but not limited to repairing fences and walls, chaining or padlocking of gates, and the repairing or boarding of doors, windows, or other openings.
24. "Trustee" means any person, partnership, association, corporation, fiduciary, or other legal entity holding a deed of trust or mortgage securing an interest in real property.
25. "Trustor" means any borrower under a deed of trust or mortgage who deeds property to a trustee as security for the payment of a debt.
26. "Vacant" means any building structure, or real property that is unoccupied or occupied by a person without a legal right of occupancy.

158.03 REGISTRATION REQUIREMENTS. The following provisions shall apply to commercial and residential properties located in the City that have been subject to foreclosure action. Beneficiaries who have voluntarily registered their properties with the City at any time following the issuance of a notice of default by the mortgagee or trustee to the mortgagor or trustor, but prior to obtaining title to the property through a foreclosure action, or who have registered their properties on the MERS system allowing the City to access current property preservation contact information, shall be considered exempt from complying with the following registration requirements:

1. Any beneficiary under a deed of trust or mortgage covering a property located within the City shall be responsible for having an inspection performed on the property that is the security for the deed of trust or mortgage within 20 days of obtaining title to the property through a foreclosure action. If, at the time of the inspection, the property is found to be vacant or shows evidence of vacancy, the beneficiary shall, within ten 10 days of the inspection, register the property with the City's Police Department on forms provided by the City. There is no fee associated with the property registration if the beneficiary complies with these time deadlines.
2. The registration shall contain the full legal name of the beneficiary and the registered representative, the direct street or office mailing address of the beneficiary and the registered representative (NO Post Office boxes), a direct contact name and telephone number for the beneficiary and registered representative, and, if applicable, the local property management company responsible for the security, maintenance, and marketing of the property for an out-of-State beneficiary. A company e-mail address may be used for the beneficiary and registered representative in lieu of a direct contact name and telephone number.
3. The registration shall be valid as long as the subject property remains vacant and shall be amended as needed.
4. This section shall also apply to properties that have been the subject of a foreclosure sale where title to the property was transferred to the beneficiary of a deed of trust or mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.
5. Properties subject to this chapter shall remain under the security and maintenance standards of this chapter as long as they remain vacant.

6. Any person or entity that has registered a property under this chapter must report any change of information contained in the registration within 10 days of the change.

158.04 SECURITY REQUIREMENTS.

1. All registered properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (walk-through, sliding, and garage), gates, and any other opening of such size that it may allow a child to access the interior of the property and/or structures. In the case of broken windows, “securing” means the re-glazing or boarding of the window.

2. If the beneficiary is an out-of-State beneficiary, a local property management company shall be contracted by the beneficiary to perform appropriate and timely inspections to verify that the requirements of this chapter, and any other applicable laws, have been satisfied.

3. The beneficiary shall cause the property to be inspected on an appropriate and timely basis to determine if the property is in compliance with the requirements of this chapter.

158.05 MAINTENANCE REQUIREMENTS. All registered properties shall comply with all the requirements of this Code of Ordinances. Adherence to this chapter does not relieve the beneficiary or property owner of any obligations set forth in any covenants, conditions, and restrictions or homeowners’ association rules and regulations that may apply to the property. The duties and obligations specified in this chapter shall be joint and several among and between all trustees and beneficiaries and their respective agents.

158.06 ENFORCEMENT. This chapter is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to this Code of Ordinances. The City Attorney’s Office and the City’s Enforcement Officials have the authority to enforce this chapter, including the pursuit of any right or remedy permitted by this Code, including but not limited to commencement of any civil action or administrative action to abate any nuisances.

158.07 VIOLATIONS. Violations of this chapter are declared to be municipal infractions. Any civil penalties imposed shall be in addition to any alternative relief sought by the City, such as seeking reimbursement for the City’s costs for abatement or correction of the violations.

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CHAPTER 160

FLOODPLAIN MANAGEMENT

160.01 Definitions

160.02 Statutory Authority, Findings of Fact and Purpose

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160.04 Floodplain Management Standards

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

1. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year. (See “100-year flood”).
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. Development does not include minor projects or routine maintenance of existing buildings and facilities as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
4. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community and may also be referred to as existing structure.
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the 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 homes include mobile homes, manufactured homes and modular homes and also include “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 flood waters 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, floodproofing and floodplain management regulations.
14. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
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 of the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either: (i) an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
18. "Lowest floor" 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 160.04(4)(A) of this chapter; and
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one 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 community.
- 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 first floodplain management regulations adopted by the community.
- 22. “One hundred 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 that 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 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 correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”
 - B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed on or after the effective date of the first floodplain management regulations adopted by the community shall be

added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

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.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City of Montezuma are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City of Montezuma 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 of this section with provisions designed to:

A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

1. Lands to Which Chapter Apply. The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City. For the purpose

of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Poweshiek County and Incorporated Areas, City of Montezuma, Panel 19157C0310B, dated May 19, 2014, which is hereby adopted and made a part of this chapter.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Clerk shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Clerk in the enforcement or administration of this chapter.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other chapters inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

7. Severability. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 FLOODPLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood elevations and floodway data have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development. All development within the special flood hazard areas shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.

- D. Obtain all other necessary permits from Federal, State, and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.
4. All New and Substantially Improved Structures.
- A. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
- B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-Built Homes.
- A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the 100-year flood level.
- B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems:
- A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.
- C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.
- D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of Flammable Materials. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Structural Works. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.
9. Watercourses. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

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 acres or 50 lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Subsection 5 of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.05 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Floodplain Administrator.
 - A. The City Clerk is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
 - B. Duties of the Administrator shall include, but not necessarily be limited to the following:
 - (1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.
 - (2) Review floodplain development applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
 - (3) Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
 - (4) Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been floodproofed.
 - (5) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
 - (6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.
2. Floodplain Development Permit.
 - A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any 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.
 - B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:
 - (1) Description of the work to be covered by the permit for which application is to be made.
 - (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - (3) Indication of the use or occupancy for which the proposed work is intended.
 - (4) Elevation of the 100-year flood.

(5) Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

3. Variance.

A. The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in

increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

B. Factors Upon Which the Decision of the Council Shall Be Based. In passing upon applications for Variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept on to other land or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the City.
- (6) The requirements of the facility for a floodplain location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- (12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- (13) Such other factors which are relevant to the purpose of this chapter.

C. Conditions Attached to Variances. Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitation of periods of use and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

(5) Floodproofing measures.

160.06 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.07 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00. Nothing herein contained shall prevent the City of Montezuma from taking such other lawful action as is necessary to prevent or remedy violation.

160.08 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

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165.01 PURPOSE. The various use districts which are created by this chapter are adopted for the purpose among others of:

1. Carrying out the Comprehensive Plan for the City.
2. Promoting the public health, safety, morals, comfort, general welfare, and preserving the natural, scenic and historically significant areas of the City.
3. Helping to achieve greater efficiency and economy of land development by promoting the grouping of those activities, which have similar needs.
4. Encouraging such distribution of population, classification of land use, and distribution of land development throughout the City that will tend to facilitate adequate and economic provision of transportation, communication, water supply, drainage, sanitation, education, recreation, and other public requirements.
5. Lessening, or avoiding congestion in public streets and highways.
6. Protecting against fire, explosion, noxious fumes, flood, panic, and other dangers in the interest of public health, safety, comfort, and general welfare.
7. Helping to insure that all residential, commercial, and manufacturing structures as well as other types of structures will be accessible to fire fighting and other emergency equipment.
8. Prohibit the formation or expansion of nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district.
9. Promoting the development of residential neighborhoods which are free of noise, dust, fumes and heavy traffic volumes in which each dwelling unit is assured of light, air, and open spaces.

10. Helping to prevent land development activities, which lead to roadside blight, and to minimize the effects of nuisance-producing activities.
11. To prevent, whenever possible, land boundary disputes or real estate title problems.
12. Promoting and guiding the continued growth and expansion of the City while protecting the natural, economic, historic and scenic resources of the City; conserving the taxable value of land and buildings throughout the City; and defining the powers and duties of the zoning officer and other bodies as provided herein.

165.02 NATURE. This chapter classifies and regulates the use of land, buildings, and structures within the corporate limits of the City, and hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience, morals, and welfare of the inhabitants, and to preserve the natural, scenic and historically significant areas of the City by dividing the City into zoning districts and regulating therein the use of the land and the use and size of the buildings as to height and number of stories, the coverage of the land by buildings, the size of yards and open spaces, the location of buildings, and the density of population.

165.03 AUTHORITY. This chapter, in pursuance of the authority granted by the Revised Statutes of the State of Iowa, Chapter 414, Section 1, shall be known and cited as the "Zoning Ordinance of the City of Montezuma, Iowa."

165.04 IOWA OPEN MEETINGS LAW. The City Council, Zoning Commission and Board of Adjustment, which are public bodies, are subject to the terms, regulations, and restrictions of the Iowa Open Meeting Law, Chapter 21 of the *Code of Iowa* as amended. Wherever in this chapter a conflict appears between this chapter and the open meeting law, the open meeting law shall control.

165.05 DEFINITIONS. For the purpose of this chapter and in order to carry out the provisions contained herein, certain words, terms, phrases, and illustrations are to be interpreted and defined herein. The word "lot" includes the words "plot or parcel" and the word "building" includes "structure." The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them.

1. "Accessory building or use" is a building or use of the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use.
2. "Alterations, structural" means any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
3. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.
4. "Appeal" means a request for review by the Board of Adjustment of the Zoning Administrator's interpretation of any provision of this chapter.
5. "Auto body repair shop" means any building, structure or land use for automobile body repair, restoration, and painting.
6. "Bed and Breakfast" means a private residence which provides lodging and meals for guests only, in which the host or hostess resides. A bed and breakfast does

not hold itself to the public to be a restaurant, hotel, or motel and serves only food to overnight guests. For the purposes of this chapter, a bed and breakfast shall be considered a home occupation.

7. “Board of Adjustment” means the Zoning Board of Adjustment of the City of Montezuma, Iowa.

8. “Building height” means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

9. “Building line” means a line on a plat between which said line and street, alley, or private place no building or structure may be erected.

10. “Car wash” means a building, or portion thereof, containing facilities for washing two or more automobiles; using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by a customer.

11. “Child care center” (institutional) means any established institution, such as a church or nonprofit organization, which receives three or more children under the age of 16 years for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation. An institutional child care center shall not be conducted in a dwelling unit or private home.

12. “Child care center” (in-home) means an organization located in a dwelling unit, or private home, which provides care services for children under the age of 16 years for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation. For the purposes of this chapter, a child care center operated in the home shall be considered a home occupation and shall follow the provisions outlined in this chapter.

13. “Clinic” means a building or buildings used by physicians, dentists, veterinarians, osteopaths, chiropractors and allied professions for out-patient care of persons requiring such professional service.

14. “Comprehensive Plan” means the general plan outlining the development of the community, which may also be titled or referred to as the master plan, comprehensive land use plan or some other title, which has been adopted by the City Council. Said Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

15. “Convenience store” means a retail store that is designed and stocked to sell primarily food, beverages, fuel, and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends on a large volume of stop-and-go traffic.

16. “Court” means an open, unobstructed, and unoccupied space other than a yard which is bounded on two or more sides by a building on the same lot.

17. “Deck” means an outdoor structure that is attached or unattached to a house or accessory building which is generally constructed of wood or structurally approved materials and used for recreational or relaxation purposes. A deck is not an accessory building unless it is a minimum of five feet away from other buildings or structures. An attached deck shall be considered part of the principal building for setback measurement purposes.

18. “Development” means any human-made 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 or storage of equipment or materials.
19. “District” means a section or sections of the City within which certain uniform regulations and requirements governing the use of buildings and premises or the height and areas of buildings and premises are enforced.
20. “Driveway” means a private roadway, providing access for vehicles to a parking space, garage, dwelling or other structure.
21. “Dwelling” is any building or portion thereof which is designed for or used for residential purposes and is not less than 24 feet in width. The term does not include a tent, cabin, trailer, or mobile home.
22. “Dwelling, attached” means a dwelling that is physically attached by a common roof, wall, or floor to another dwelling or accessory building.
23. “Dwelling, condominium” means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate.
24. “Dwelling, rowhouse or townhouse” means any one of two or more attached dwellings in a continuous row, each dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
25. “Dwelling unit” is a dwelling which consists of one or more rooms which are arranged, designed, or used as living quarters for one family only.
26. “Dwelling, single-family” is a detached residential dwelling unit, other than a mobile home, designed for occupancy by one family only.
27. “Dwelling, two-family” is a detached residential building containing two dwelling units, designed for occupancy by not more than two families with separate housekeeping and cooking facilities for each.
28. “Dwelling, multiple-family” is a residential building designed for occupancy by three or more families, with separate housekeeping and cooking facilities for each.
29. “Dwelling, detached” means a dwelling, which is not attached to any other dwelling, by any means. The detached dwelling does not have any roof, wall, or floor in common with any other dwelling unit.
30. “Exotic animals” means domesticated animals kept for commercial or personal purposes that are not common domesticated animals, including (but not limited to) emus, ostriches, llamas, monkeys, snakes, spiders, chinchillas, and mink.
31. “Family” means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over eight persons.
32. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support

personnel. A family home does not mean an individual foster care family as licensed under Chapter 237 of the *Code of Iowa*.

33. “Farm” or “farmland” means a parcel of land used for agricultural purposes and the growing and production of all agricultural products thereon, and their storage on the area, or for the raising thereon of livestock.

34. “Farm animal” means the production, keeping or maintenance for sale, lease or personal use of animals useful to humans, including (but not limited to) dairy animals, poultry, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; and fur animals but not including rabbits kept as pets.

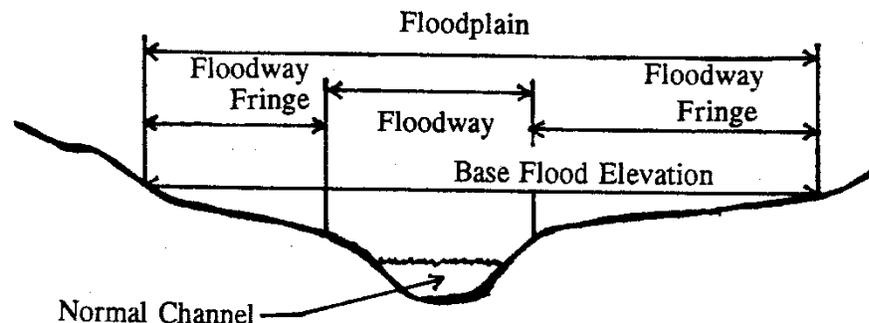
35. “Feedlot” means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs, sheep or poultry. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

36. “Fence, residential” means a barrier and/or structure erected in an R district intended to provide security, mark a boundary or as a means of landscaping with the centerline of said barrier to be located on the designated property line. Such fence shall be constructed of materials commonly used for landscape fencing such as masonry block, lumber, and chain link, but shall not include corrugated sheet metal, barbed wire, or salvage material.

37. “Fence, nonresidential” means a barrier and/or structure erected in a district other than an R district intended to provide security, mark a boundary, or as a means of landscaping with the centerline of said barrier to be located on the designated property line provided no such fence is constructed of salvaged material or uses barbed wire closer than six feet to the ground except a fence used purely for agricultural purposes. Such fence shall be constructed of materials commonly used for landscape fencing such as masonry block, lumber, and chain link, but shall not include corrugated sheet metal, barbed wire, or salvage material. Barbed wire is allowed in zoned A-1 areas.

38. “Floodplain” means the channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater. See Figure 1 below.

Figure 1: Floodplain Definitions

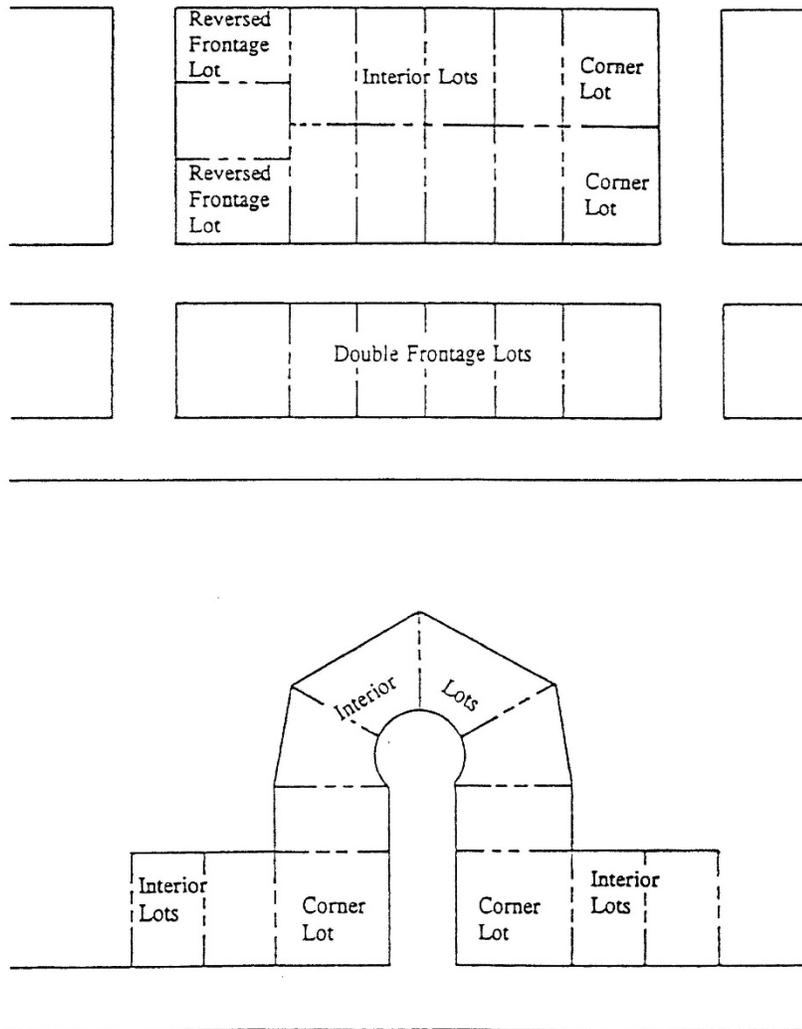


39. “Frontage” means that side of a lot abutting on a street; the front lot line.

40. “Garage, attached” means an attached structure designed or used for the storage of motor-driven vehicles owned and used by the occupants of the primary building.
41. “Garage, detached” means a detached accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the primary building.
42. “Group care facility” means a facility which provides resident services to seven or more individuals of whom one or more, are unrelated. These individuals are handicapped, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes any licensed or supervised federal, State or County health/welfare agencies, such as group homes (all ages), halfway houses, resident schools, resident facilities and foster or boarding homes.
43. “Home industry” means an occupation or profession conducted entirely within an enclosed accessory building and/or an attached garage of a dwelling unit that is clearly incidental and secondary to the residential occupancy and does not change the character thereof.
44. “Home occupation” means an occupation or profession conducted entirely within an enclosed dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
45. “Hotel” means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or rooming house.
46. “Household” means a family living together in a single dwelling unit, with common access to and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.
47. “Improvements” means changes to land necessary to prepare it for building sites, including (but not limited to) grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, storm sewers, sanitary sewers, drainage ways, and other public works and appurtenances.
48. “Junk or salvage” means all old or scrap copper, brass, lead, broken glass, rope, rags, batteries, paper trash, tires and rubber, debris, waste, tin-ware, plastics, appliances, furniture, equipment, building demolitions materials including wood and lumber, structural steel materials, or similar materials. This definition shall also include junked, dismantled, or wrecked motor vehicles, or parts of motor vehicles, and iron, steel, or other scrap ferrous or nonferrous material.
49. “Junkyard” means any area where waste, discarded or salvaged materials are bought, sold, exchanged, stored or abandoned, baled or packed, disassembled, or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house wrecking yards, house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
50. “Junk vehicle” is defined in Chapter 51 of this Code of Ordinances.
51. “Kennel, commercial dog” means any parcel of land on which three or more dogs, six months old or older, are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.

52. “Kennel, private dog” means any parcel of land on which three or more dogs are kept, however, this shall not include breeding, grooming, boarding or other activities associated with the care of dogs other than the owner’s dogs.
53. “Laundromat” means an establishment providing washing, drying and/or dry cleaning machines on the premises for rental use to the general public for family laundering and/or dry cleaning purposes.
54. “Lot area” means the total area within the lot lines of a lot, excluding any street rights-of-way. (See Figure 2.)
55. “Lot, corner” means a lot abutting upon two or more streets at their intersection.
56. “Lot depth” means the mean horizontal distance between the front and rear lot lines. (See Figure 2.)
57. “Lot, double frontage” means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
58. “Lot frontage” means the length of the front line measured at the street right-of-way line. (See Figure 2.)
59. “Lot, interior” means a lot other than a corner lot.
60. “Lot line” means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space. (See Figure 2.)
61. “Lot line, rear” means the lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. (See Figure 2.)
62. “Lot lines, side” means any lot line other than a front or rear lot line. (See Figure 2.)
63. “Lot, minimum area” means the smallest lot area established by the Zoning Ordinance on which a use or structure may be located in a particular district.
64. “Lot of record” means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the county recorder of the county in which it is located.
65. “Lot width” means the width of a lot measured at the building line and at right angles to its depth. (See Figure 2.)

Figure 2: Examples of Lot Definitions



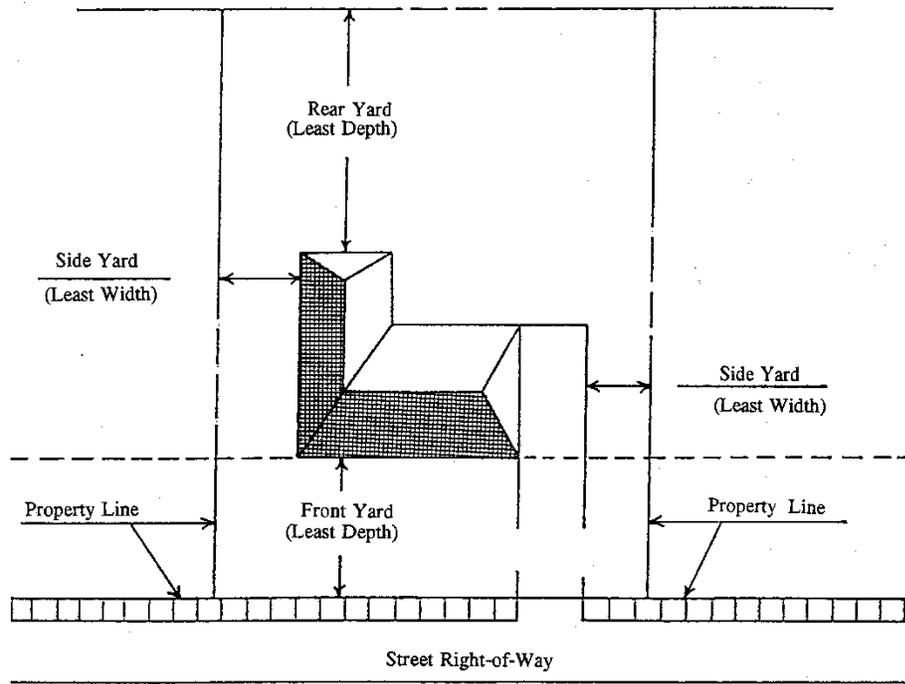
66. “Manufactured home” means a single-family structure which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. The home shall also be converted to real estate and taxed as such, as required by Chapter 435 of the *Code of Iowa*. For the purposes of this chapter, a manufactured home may also be known as a modular home. The principal portion of such building shall have a continuous and complete frost protected perimeter foundation. A manufactured home as defined in this chapter shall be placed upon piers per the manufacturer’s requirements but said home must meet the foundation requirements contained herein; namely, it shall also have a complete permanent perimeter foundation with piers. The building shall have for the exterior wall covering either:

- A. Wood or masonry finish, or its appearance, and/or
- B. Vertical or horizontal grooved siding or lap siding, or its appearance.

67. “Mobile home” means a structure, transportable in one or more sections, which is at least eight feet in width and thirty-two feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit.
68. “Motor court” or “motel” is a building or group of buildings used primarily for the temporary residence of motorists or travelers with parking facilities conveniently located to each unit, and may include accessory facilities such as swimming pool, restaurant, meeting rooms, etc.
69. “Nonconforming building” means a building which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district in which it is situated.
70. “Nonconforming use” means a use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district in which it is situated.
71. “Owner” means the legal entity holding title to the property, or such representative or agent as is fully empowered to act on its behalf.
72. “Parcel” means a part of a tract of land.
73. “Parking lot” means a parcel of land devoted to unenclosed parking spaces.
74. “Parking space” means a surfaced area, enclosed in the principal building, an accessory building, or an unenclosed area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
75. “Planned unit development” (PUD) means an area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.
76. “Sidewalk” means a paved or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.
77. “Sign” means any structure or part thereof or device attached thereto or painted, or represented thereon, which displays or includes any letter, work model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. Sign includes “billboard” but does not include the flag, pennant or insignia of any nation, state, City or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.
78. “Site plan” means a plan (to scale) showing uses and structures proposed for a parcel of land as required by the regulations involved.
79. “Special exception” means a listed use that may not be in exact compatibility with other principal permitted uses of a zoning district, but which may be allowed according to the provisions and requirements of this chapter by the Board of Adjustment.

80. “Stable, private” means a building, incidental to an existing residential, principal use, that shelters equine for the exclusive use of the occupants of the premises.
81. “Stable, public” means an accessory building in which equine are kept for commercial use including boarding, hire, and sale.
82. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards and poster panels.
83. “Structural alteration” means any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
84. “Towers” means any radio, television, telephone, short-wave, cellular telephone, wind generation, or microwave antenna or tower.
85. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, stormwater, telephone and cablevision.
86. “Variance” means a grant of relief considered by the Board of Adjustment to an applicant from the terms of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
87. “Violation” means an intentional or deliberate failure of a structure or other development to be fully compliant with the provisions of this chapter.
88. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building.
89. “Yard, rear” means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard. (See Figure 3.)
90. “Yard, side” means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto. (See Figure 3.)
91. “Zoning Administrator” means the administrative officer designated or appointed by the City Council to administer and enforce the regulations contained in this chapter.

Figure 3: Yard Definitions



[The next page is 819]

165.06 ESTABLISHMENT OF DISTRICTS. For the purposes of this chapter, the City is hereby organized into the following zoning districts:

- A-1 Agricultural District
- R-1 Residential District
- R-2 Mobile Home District
- C-1 Mixed Use Commercial District
- C-2 Downtown Historic Commercial District
- M-1 Manufacturing/Industrial District.

165.07 ZONING MAP. The location and boundaries of the zoning districts established by this chapter are set forth on the map entitled “Zoning Map” which is located in the Montezuma City Hall and made a part of this chapter. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this title as though fully set forth and described herein. *(See EDITOR’S NOTE at the end of this chapter for ordinances amending the zoning map.)*

165.08 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Zoning Map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of such streets, highways or alleys.
2. Boundaries shown as following or approximately following platted lot lines or other property lines shall be construed to follow said boundary lines.
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at a mean low water mark.
5. Boundaries shown as following or closely following the City limits shall be construed as following such City limit lines.
6. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries.
8. Whenever any street, alley or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classifications of the vacated land.

165.09 ANNEXED TERRITORY. All territory which may hereafter be annexed to the City shall be classed automatically as being in an A-1 Agricultural District until such classification shall have been changed by amendment of the Zoning Ordinance as provided hereinafter.

165.10 ZONING AFFECTS EVERY STRUCTURE. Except as hereinafter provided, no building, structure, or land shall be erected, constructed, reconstructed, occupied, moved,

altered, or repaired, except in conformity with the regulations herein specified for the class of district in which it is located.

165.11 MINIMUM STANDARDS.

1. Minimum Street Frontage. No lot shall be created after the adoption of this Zoning Ordinance unless it abuts at least 30 feet on a public street.
2. Lot of Record. In any Residential District on a lot of record at the time of enactment of this Zoning Ordinance, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of the Zoning Ordinance are met. Further, where two or more contiguous recorded lots are held in common ownership, they may be combined into a zoning lot and shall thereafter be maintained in common ownership by deed restriction and shall be so joined and developed for implementing this section. The razing of a building on a substandard lot shall constitute the formation of a vacant lot.
3. Lots Unserved by Sewer and/or Water. In any residential district where neither public water supply nor public sanitary sewer is reasonably available, one single dwelling may be constructed, provided the otherwise specified lot area and width requirements shall be a minimum of two acres.

165.12 REQUIRED YARD CANNOT BE REDUCED. No lot, yard, court, parking area or other open space shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this chapter, and if already less than the minimum required it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another building or structure.

165.13 YARD AND PARKING SPACE RESTRICTION. No part of any yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of yard, open space, off-street parking or loading space similarly required for any other building.

165.14 TRAFFIC VISIBILITY ACROSS CORNER LOTS. In a residential or agricultural district on any corner lot, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining the right-of-way lines at points which are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.

165.15 ESSENTIAL SERVICES. Essential services shall be permitted as authorized and regulated by law and other ordinances of the community. With the exception of buildings and telecommunication towers, it is the intent to exempt such essential services from the application of this chapter. Associated buildings and telecommunication towers must be located in the appropriate Zoning District, and must abide by the corresponding requirements thereof.

165.16 VALIDITY OF EXISTING BUILDING PERMITS. Nothing contained in this chapter shall require any change in the overall layout, plans, construction, size or designated uses of any development, building, structure or part thereof, for which the official approvals and required building permits have been granted before the enactment of this Zoning Ordinance, the construction of which, conforming with such plans, shall have been started prior to the effective date of the chapter and the completion thereof carried on in a normal manner within the

subsequent six-month period, and not discontinued until completion, except for reasons beyond the builder's control.

165.17 HEIGHT EXCEPTIONS. The height limitations contained in Section 165.25 does not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing or other structures placed above roof level and not intended for human occupancy.

165.18 PUBLIC RIGHT-OF-WAY USE. No portion of the public street or alley right-of-way shall be used or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this title, or for any other purpose that would obstruct the use or maintenance of the public right-of-way. No structure, building, sign, fencing, or landscaping shall be placed in an easement. The City will not bear any responsibility, financial or otherwise, for moving or reconstructing any of these types of structures when access is required to an easement.

165.19 FENCES.

1. Fences in an R District. Residential fences or landscape features such as sculpture or walls may be erected or constructed on the property line. A fence in the front yard shall not exceed four feet in height and six feet in height in the case of side and rear yards.
2. Fences in Districts other than R Districts. Fences cannot exceed eight feet in height and may be erected directly on property line.

165.20 PROPOSED USE NOT COVERED. Any proposed use not specifically addressed or listed in this chapter as a principal permitted use or special exception shall be referred to the Zoning Commission for a recommendation as to the proper District in which said use should be permitted. The chapter shall be amended as provided herein, before a request is made or permit is issued for the proposed use.

165.21 ACCESS REQUIRED. Every building hereafter erected or structurally altered shall be accessible from a public right-of-way, either directly or by easement.

165.22 APPLICATION OF REGULATIONS. The regulations within each district of this chapter shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

165.23 PERMITTED USES.

1. Use is permitted in all zoning districts for the purposes of the distribution of public utilities. However design and placement of said equipment and devices shall be reviewed by the Zoning Commission and approved by the City Council.
2. All other uses are permitted only as listed under each specific zoning district.

165.24 TEMPORARY SPECIAL EXCEPTIONS. The following uses may be permitted by a temporary special exception permit, valid for 10 days or less to the applicant, subject to the review and approval of the application by the Board of Adjustment:

1. Carnival, circus.
2. Festivals.

In determining whether a temporary special exception permit shall be granted, the Board of Adjustment shall give consideration to the health, safety, morals and comfort of area residents, any adverse impact on land uses, possibility of traffic congestion, harm to public roads, erosion of adjacent property and threat to any source of water supply. Conditions and restrictions as determined necessary to protect the public health, safety, morals, and comfort may be attached to the permit.

165.25 BULK REQUIREMENTS. All new buildings shall conform to the building regulations established herein for the district in which each building shall be located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or to further conflict with the bulk regulations of this chapter for the district in which such buildings shall be located. Minimum bulk requirements are listed in the following table.

Table 1: Bulk Requirements

District Use	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Side Yard on Corner Lot	Minimum Rear Yard
A-1 Agricultural							
Single Family	---	2 acres	180 feet	25 feet	8 feet	25 feet	30 feet
Other Permitted Uses	---	2 acres	180 feet	50 feet	50 feet	50 feet	50 feet
R-1 Residential							
Single Family	---	8,700 square feet	66 feet	10 feet	5 feet	10 feet	5 feet
Other Permitted Uses	---	17,400 square feet	66 feet	10 feet	5 feet	10 feet	5 feet
R-2							
Accessory Buildings	25 feet or 1 story, whichever is lower	---	---	Not allowed in front yards	5 feet	10 feet	5 feet
R-1 and R-2							
Mobile Homes	---	5,000 square feet	50 feet	10 feet	5 feet	10 feet	5 feet
C-1							
Mixed Use Commercial	---	---	---	---	---	---	---
C-2							
Downtown Historic Commercial	---	---	---	---	---	---	---
M-1							
Manufacturing/Industrial	---	---	---	---	---	---	---

165.26 REZONING, VARIANCES AND SPECIAL PERMITS. All petitions for rezoning, special exceptions, variances, etc. must be in writing, stating the exact legal description of land involved. Said petitions must be received by the Zoning Administrator 20 days prior to a stated or special meeting of the Zoning Commission or Board of Adjustment. A preliminary plat plan shall be submitted with a petition for rezoning for subdivisions.

165.27 HOME OCCUPATION STANDARDS. The following standards and criteria shall apply to home occupations.

1. The home occupation shall be clearly incidental and secondary to the use of the dwelling unit as a residence.
2. The home occupation shall be conducted entirely within an existing dwelling unit.
3. The home occupation shall be conducted by a member of the family residing within the dwelling unit and no more than two non-resident employees.
4. There shall be no evidence of such occupation being conducted within the dwelling unit, which is perceivable at or beyond the lot lines, by virtue of outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation.
5. Water, sewer, and waste disposal systems shall be subject to approval of the City Council.
6. Customer parking shall be provided and be as inconspicuous as possible on the premises.
7. The home occupation shall occupy less than 50 percent of the floor area of the dwelling unit in which it is located.

165.28 HOME INDUSTRY STANDARDS. The following standards and criteria shall apply to home industries.

1. The home industry shall be clearly incidental and secondary to the residential occupancy of a dwelling unit located up on the property.
2. The home industry shall be conducted entirely and confined within an accessory detached building located upon the property.
3. The home industry shall be conducted by a member of the family residing within the dwelling unit located on the property and no more than two nonresident employees.
4. There shall be no evidence of such industry being conducted within the accessory building which is perceivable at or beyond the lot lines, by virtue of outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation.
5. Water, sewer, and waste disposal systems shall be subject to approval of the City Council.
6. Customer parking shall be provided and be as inconspicuous as possible on the premises.
7. Home industries shall meet the accessory building requirements outlined in Section 165.25.

165.29 HOME OCCUPATION AND HOME INDUSTRY SIGNS. Only one identification sign may be displayed upon the lot, subject to the following requirements.

1. Sign shall contain only the name of the occupant and the nature of the occupation.
2. Sign shall not contain more than four square feet and shall be attached to the principal building.
3. Sign shall not be illuminated.
4. If sign is located along a State or federal highway, an Iowa Department of Transportation permit must be obtained.

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165.30 A-1 AGRICULTURAL DISTRICT. The A-1 Agricultural District is intended to provide regulations for land situated on the fringe of the urban area that is used primarily for agricultural purposes. Many tracts in this district will be in close proximity to residential, commercial, or industrial uses. The purpose of this district is to restrict the permitted uses to those which are compatible with both agricultural uses and developing residential, commercial, or industrial uses.

1. Principal Uses Permitted.
 - A. Agricultural crops and farm animals which are open grazed on the land.
 - B. Single family dwellings.
 - C. Manufactured housing.
 - D. Churches and temples.
 - E. Public schools, elementary, junior high and high schools.
 - F. Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
 - G. Public buildings, public, semipublic parks, playgrounds or community buildings.
 - H. Golf courses and country clubs, miniature courses or driving ranges.
 - I. Accessory uses and buildings which are customarily incidental to any of the above stated uses, but not involving the conduct of business.
 - J. Roadside stand for sale of produce raised on the premises.
 - K. Public buildings and facilities, including essential service buildings.
 - L. Home occupations and home industries.
2. Special Exceptions. The following special exceptions deemed appropriate on review by the Board of Adjustment in accordance with provisions contained herein:
 - A. Hospitals; rest, nursing, convalescent, and family homes; homes for children and aged; off-street parking and yards comparable for other institutional uses to be provided under its chapter.
 - B. Public utilities.
 - C. Cemetery or mausoleum.
 - D. Recreational development for seasonal or temporary use.
 - E. Extraction of sand, gravel, topsoil or other natural resources provided the land is restored to a condition suitable for the permitted uses of this district.
 - F. Dog kennels.
 - G. Greenhouses and plant nurseries operated for commercial purposes.
 - H. Telecommunications towers and other towers.
3. Lot Area, Frontage and Yard Requirements. In the A-1 Agricultural District, lot area, frontage and yard requirements shall be those regulations as specified in Section 165.25 of this chapter.

4. Off-Street Parking. In the A-1 Agricultural District, off-street parking and loading requirements shall be those regulations as specified in Section 165.36.
5. Sign Regulations. In the A-1 Agricultural District, sign regulations shall be those regulations as specified in Section 165.37.

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165.31 R-1 RESIDENTIAL DISTRICT. The Residential District is to provide for dwelling structures. The principal use of land may range from single family, multi-family, and condominiums and row housing. Certain other uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

1. Principal Uses Permitted. Property and buildings in an R-1 Single-Family Residential District shall be used only for the following purposes:
 - A. Single-family detached dwellings.
 - B. Condominiums, townhouses, and rowhouses provided each unit has individual access to essential services.
 - C. Multi-family housing that complies with the standards in Subsections 7 and 8 of this section.
 - D. Manufactured housing.
 - E. Churches and temples.
 - F. Public schools, elementary, junior high and high schools.
 - G. Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
 - H. Public, semi-public parks and playgrounds.
 - I. Public buildings and facilities, including essential service buildings.
 - J. Family homes.
 - K. Home occupations and home industries.
 - L. Accessory uses which are customarily incidental to any of the above stated uses, but not involving the conduct of business. Accessory uses shall include private garages and carports, private swimming pools, and private greenhouses not operated for commercial purposes.
2. Special Exceptions. The following special exceptions deemed appropriate on review by the Board of Adjustment in accordance with the provisions contained herein:
 - A. Family homes, nursing homes, convalescent homes, public buildings, and/or community buildings, with the same off-street parking and yards as those required for other institutional uses under this chapter.
 - B. Public utilities.
 - C. Swimming pools, golf courses and country clubs, miniature golf courses, and driving ranges.
 - D. The taking of boarders or the leasing of rooms by a resident family, providing total number does not exceed two per building.
 - E. Private kindergartens and day nurseries, and child care centers.
 - F. Medical and dental clinics.

- G. Planned unit developments upon tracts of 10 acres or more, subject to the requirements in Section 165.38.
 - H. Group care facilities.
 - I. Offices such as accountants, dental offices, architects, insurance, attorneys, barber shop, medical offices, beauty shop, dispensary, church offices, home health nurses, civil engineers, psychologists, collection agency, public stenographers, credit bureau, and real estate; other uses similar to the foregoing designated uses, but subject to review by the Board of Adjustment with the final review and approval by the City Council.
 - J. Accessory uses and buildings which are customarily incidental to any of the above uses.
3. Lot Area, Frontage and Yard Requirements. In the R-1 Single-Family Residential District, lot area, frontage and yard requirements shall be those regulations as specified in Section 165.25.
4. Sign Regulations. In the R-1 Single-Family Residential District, sign regulations shall be those regulations as specified in Section 165.37.
5. Height Regulations, Lot Area, Frontage and Yard Requirements. On a corner lot the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street. No part of any accessory building shall be nearer a side street lot line than the least depth on any front yard required along such side street.
6. Off-Street Parking. Each multi-family living unit shall have two parking spaces per living unit. These parking spaces shall be in the side or rear yard. The parking spaces shall be graveled or hard surface and free of ruts and weeds.
7. Accessory Buildings, Structures, and Uses in Residential District. The provisions in this section shall apply to all accessory buildings constructed within the City.
- A. Percentage of Rear Yard Occupied. No detached accessory building or buildings shall occupy more than 30 percent of the area of a rear yard.
 - B. Height of Accessory Buildings. No detached accessory building or structure shall exceed 25 feet in height.
 - C. Location on Lot. No accessory building or structure shall be erected in any front yard. Accessory buildings or structures shall be no closer than five feet from any main buildings.
8. More Than One Principal Structure on Lot. No more than one single-family detached dwelling may be erected on a single lot.

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165.32 R-2 PLANNED MOBILE HOME DISTRICT. The intent of the R-2 District is to provide sites only for the location of current mobile home parks. The City does not desire any new mobile home facilities.

1. Principal Permitted Uses.
 - A. Single-wide or double-wide mobile homes in mobile home parks, as regulated herein.
 - B. Non-commercial community recreational facilities that are intended exclusively for the use of the residents and their guests of the mobile home development.
 - C. Buildings used for the management and maintenance of the development.
 - D. Tornado shelters.
2. Accessory Uses.
 - A. Buildings and uses customarily accessory to mobile homes such as garages and storage buildings.
 - B. One indirectly lighted, non-flashing sign not to exceed one square foot for each five feet of frontage of said mobile home park.
3. Lot Area, Frontage, and Yard Requirements. Lot area, frontage and yard requirements shall be those regulations as specified in Section 165.25.
4. Land Use and Density Requirements for Current and New Mobile Home Parks.
 - A. Alterations or changes may be made within existing mobile home parks provided that the spacing requirements are in conformance with this chapter. The placement or alterations of any additional structures, including mobile homes, manufactured homes, accessory buildings, and all other buildings shall require zoning approval.
 - B. Any nonconforming mobile home or mobile home park which is hereafter damaged to an extent exceeding 60 percent or more of its replacement cost shall not be restored or reconstructed until it is brought into compliance with this chapter. This requirement also includes constructing a storm or emergency shelter that is sufficient in size for the park at the rate of five spaces in the shelter for each mobile home lot.
 - C. Nothing in this chapter shall prohibit the maintenance and repair of nonconforming mobile homes and mobile home parks to keep such mobile homes and parks in safe and sound condition, provided no enlargement, extension, alteration, or change shall be made to increase the degree of nonconformity.
 - D. There shall be no less than 25 feet between any mobile homes.
 - E. There shall be at least three feet between any mobile home and an accessory building.
 - F. No part of any mobile home or other structure shall be located within 25 feet of any public road, or within 20 feet of any exterior boundary of the R-2 District.

G. Parking facilities shall be provided within the mobile home lot at the rate of two spaces per mobile home.

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165.33 C-1 MIXED USE COMMERCIAL DISTRICT. The C-1 Commercial District is intended and designed for business, professions, and occupations and some residential activities in good locations in areas other than the central business district.

1. Principal Uses Permitted. Property and buildings in a C-1 Commercial District shall be used only for the following purposes:

- Any use permitted in the R-1 District.
- Antique shops.
- Multi-family housing, with off-street parking.
- Automobile accessory stores.
- Automobiles, trailer, motorcycle, boat and farm implement establishments for display, hire, rental, and sales (including sales lots).
- Bakeries or bakery outlets, retail sales only.
- Banks, savings and loan associations, and similar financial institutions.
- Barbershops and beauty parlors.
- Business offices, professional offices and studios.
- Car washes, including truck bays.
- Carpenter and cabinet making shops.
- Churches.
- Clothes cleaning and laundry pick-up stations.
- Commercial sales.
- Confectionery stores, including ice cream or snack bars.
- Dance studio.
- Dental and medical clinics.
- Restaurants.
- Drug stores.
- Dry goods stores.
- Florist shops.
- Furniture stores.
- Gift shops.
- Grocery stores, including supermarkets.
- Hardware stores.
- Health club.
- Hotels and motels.
- Household appliances, sale and repair. No items shall be stored or displayed outside of the building.
- Jewelry stores and watch repair shops.
- Lawn mower repair shops.
- Locker plant for storage and retail sales only.
- Lumber yards.
- Music studios.
- Paint and wallpaper stores.
- Pet shops.
- Photographic studios, printing and developing establishments.
- Playgrounds and public parks.
- Plumbing and heating shops. No items shall be stored or displayed outside of the building.
- Post offices.
- Printing and lithographing shops.
- Public buildings and facilities, including essential service buildings.
- Publishing and engraving establishments.
- Radio and television sales and repair shops. No items shall be stored or displayed outside of the building.
- Rental storage buildings provided that all items are stored inside of the buildings.

Sporting goods stores.
 Upholstering shops.
 New and used car lots. All the vehicles shall be in immediately operable condition. No junk or unrepaired wrecked vehicles shall be stored in public view on the lot.
 Variety stores.
 Animal hospitals and veterinary clinics.
 Service stations and convenience stores.
 Welding and machine shops. No items shall be stored outside of the building.
 Funeral homes and mortuaries.
 Wholesale display and sales rooms and offices.
 Accessory uses and buildings which are customarily incidental to the above stated uses.
 Other uses similar to the foregoing designated uses after review and approval of the Board of Adjustment.

2. Special Exceptions. The following special exceptions deemed appropriate on review by the Board of Adjustment in accordance with the provisions stated herein:

- A. Sheet metal shops.
- B. Automobile, trailer, motorcycle, boat and farm implement service/repair establishments. The City may place site standards on storage of repair items and other requirements so that there is a good view from the public right-of-way.
- C. Agricultural feed and seed sales, but excluding grinding, mixing and bleeding.
- D. Billiard parlors and pool halls.
- E. Book stores.
- F. Dance halls.
- G. Liquor stores and lounges.
- H. Nightclubs
- I. Private clubs and lodges.
- J. Video equipment rental and sales, including film rental.

3. Off-Street Parking Areas. In the C-1 Commercial District, off-street parking areas and loading requirements shall be those regulations as specified in Section 165.36.

4. Signs. In the C-1 Commercial District, sign regulations shall be those regulations as specified in Section 165.37.

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165.34 C-2 DOWNTOWN HISTORIC COMMERCIAL DISTRICT. The C-2 Central Commercial District is designed to accommodate the needs of the central business district, allowing a wide range of services and goods permitted for consumer daily and occasional shopping and service needs. This district will also assist with protecting and enhancing the visual character of development and to preserve the unique streetscape of downtown by encouraging compatibility among downtown structures.

1. Principal Uses Permitted. Property and buildings in a C-2 Central Commercial district shall be used only for the following purposes:

- Antique shops.
- Multi-family and owner occupied housing (see housing restrictions in Subsection 4 of this section).
- Automobile accessory stores.
- Automobiles, establishments for display, rental, and sales (including sales lots). All the vehicles shall be in immediately operable condition. No junk or unrepaired wrecked vehicles shall be stored in public view on the lot.
- Bakeries or bakery outlets, retail sales only.
- Banks, savings and loan associations, and similar financial institutions.
- Barbershops and beauty parlors.
- Business offices, professional offices and studios.
- Churches.
- Clothes cleaning and laundry pick-up stations.
- Commercial sales.
- Confectionery stores, including ice cream or snack bars.
- Dance studio.
- Dental and medical clinics.
- Restaurants.
- Drug stores.
- Dry goods stores.
- Florist shops.
- Furniture stores.
- Gift shops.
- Grocery stores, including supermarkets.
- Hardware stores.
- Health club.
- Household appliances, sale and repair.
- Jewelry stores and watch repair shops.
- Locker plant for storage and retail sales only.
- Music studios.
- Paint and wallpaper stores.
- Pet shops.
- Photographic studios, printing and developing establishments.
- Plumbing and heating shops. No items shall be stored outside of the building.
- Post offices.
- Printing and lithographing shops.
- Public buildings and facilities, including essential service buildings.
- Publishing and engraving establishments.
- Radio and television sales and repair shops. No items shall be stored or displayed outside of the building.
- Sporting goods stores.
- Upholstering shops.
- Variety stores.
- Funeral homes and mortuaries.
- Wholesale display and sales rooms and offices.

Accessory uses and buildings that are customarily incidental to the above stated uses. Other uses similar to the foregoing designated uses after review and approval of the Board of Adjustment.

2. Special Exceptions. The following special exceptions deemed appropriate on review by the Board of Adjustment in accordance with the provisions stated herein:

- A. Billiard parlors and pool halls.
- B. Book stores.
- C. Dance halls.
- D. Liquor stores and lounges.
- E. Nightclubs
- F. Private clubs and lodges.
- G. Animal hospitals and veterinary clinics.
- H. Video equipment rental and sales, including film rental.

3. Off-Street Parking Areas. In the C-2 Central Commercial District, off street parking areas and loading requirements shall be those regulations as specified in Section 165.36.

4. Appearance Expectations.

A. All downtown businesses shall not store items outside of the building that makes the business or area look bad. The City may place standards on buildings, set by the Board of Adjustment, to ensure that the buildings look good.

B. No junk or unrepaired vehicles or equipment shall be stored in public view on any lot.

C. There shall be no residential use on the first floor public street frontage. There can be residential use on the first floor but it shall be behind the permitted commercial space. The commercial space shall be at least two-thirds of the first floor square feet. The commercial space shall be on the frontage of the building.

D. Building entrances shall face the public street.

E. The front of building shall be adjacent to the public right-of-way sidewalk.

F. For new buildings and existing buildings with low or no sloped roofs, the front roof line shall appear to be flat. Awnings and signs may protrude from the front wall. There may be a roof pitch behind the front wall but the roof pitch shall not be visible from the public road.

G. The front façade shall be covered in materials that are representative of the downtown construction time frame and the original building construction. Permitted front façade material types for new construction shall be glass, stucco, tile, wood, and masonry or the appearance thereof. No vinyl siding or sheet metal shall be used on the building frontage. Existing buildings shall use front façade materials that are similar in appearance to the original building construction methods. A current building owner must comply with the historic

material types specified in this chapter if they cover, change, or alter the current façade.

5. Signs. In the C-2 Central Commercial District, sign regulations shall be those regulations as specified in Section 165.37.

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165.35 M-1 MANUFACTURING/INDUSTRIAL DISTRICT. The M-1 Manufacturing/Industrial District is intended primarily for the conduct of manufacturing, assembling, and fabrication. It is designed to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards. The uses permitted in this District make it most desirable that they be separated from residential uses.

1. Principal Uses Permitted. Property and buildings in an M-1 Manufacturing/Industrial district shall be used only for the following purposes:

Any use permitted in the C-1 and C-2 Districts, except any type of residential use. This would include single-family, two-family, multi-family, condominium, manufactured housing, mobile homes, and apartments. Hotels and motels are permitted.

Automobile body repair and paint shop.

Automobile restoration and rebuilding shops.

Automobile, trailer, motorcycle, boat, and farm implement service or repair establishments.

Cabinet making plants or factories with more than three employees.

Consignment and auction sales operations of any kind having no more than four public sales per month, but excluding the sale of livestock, fish, fowl, or animals of any kind.

Construction businesses, contractor's shops, and storage yards.

Farm implement sales, service, repair and assembly.

Rental storage buildings, including mini-storage facilities.

Semi-tractor trailer parking.

Tool and die operations.

Truck or bus garage and repair shop.

Welding and machine shops.

Wholesaling and warehousing.

Sheet metal products manufacture.

Brick and clay products and central mixing and proportioning plant.

Flour, feed and grain milling and storage.

Structural iron and steel fabrication.

Machinery manufacture.

Mini-steel plants.

PVC products manufacturing.

Accessory uses and buildings which are customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.

Other uses similar to the foregoing designated uses.

2. Special Exceptions. The following uses deemed appropriate on review by the Board of Adjustment in accordance with provisions contained herein:

A. Carnivals, circuses, fairs, road shows.

B. Cleaning and dyeing plants.

C. Animal processing facilities.

D. Foundry operations.

E. Junkyards, including automobile wrecking and/or salvage, enclosed by a presentable solid fence eight feet high.

F. Fertilizer manufacture.

- G. Stock yards, slaughterhouses and/or sale barns and yards.
 - H. Explosive manufacture.
 - I. Bulk storage and manufacturing of petroleum products and liquid fertilizers.
 - J. Acid manufacture.
 - K. Paint and varnish manufacture.
 - L. Wholesaling and warehousing of hazardous chemicals.
 - M. Kennel and/or animal rescue shelters.
 - N. Accessory uses and buildings which are customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
 - O. Other uses after the review of the Board of Adjustment and final approval by the City Council.
3. Off-Street Parking Areas. In the M-1 Manufacturing/Light Industrial District, off-street parking areas and loading requirements shall be those regulations as specified in Section 165.36.
4. Signs. In the M-1 Manufacturing/Light Industrial District, sign regulations shall be those regulations as specified in Section 165.37.

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165.36 OFF-STREET PARKING AREAS AND LOADING SPACES. Any lighting used to illuminate such parking areas shall be arranged as to reflect light away from adjoining premises in an R District.

165.37 SIGNS. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use will cease, they shall be removed promptly and the surrounding area restored to a condition free from refuse and debris.

1. Agricultural Districts. In any agricultural district the following signs are permitted:
 - A. Name plates not to exceed one square foot in area.
 - B. Church or public bulletin boards.
 - C. Temporary signs advertising the lease or sale of the premises, not to exceed 12 square feet in area.
 - D. Bulletin boards and signs pertaining to the lease, hire, or sale of a building or premises, or signs pertaining to any material that is grown or treated within the district; provided, however, such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed or stored.
2. Residential District. In any residential district the following signs are permitted:
 - A. Name plates not to exceed one square foot.
 - B. Church or public bulletin boards.
 - C. Temporary signs advertising the lease or sale of the premises, not to exceed 12 square feet in area.
 - D. Facilities, other than single-family dwellings, normally required to provide an attractive residential area may illuminate signs, bulletin boards and name plates only with indirect non-intermittent lights that do not exceed 60 watts.
 - E. Signs for home occupations not exceeding four square feet in area.
 - F. Signs must not project more than four feet above the roofline.
3. Commercial Districts. The following signs are permitted in the commercial districts:
 - A. Signs permitted in the residential districts.
 - B. Two signs per business shall be permitted in the C-1 and C-2 District. There shall only be one post sign for each business. Any exterior sign shall pertain only to a use conducted within the building and be integral or attached thereto. No sign may project over any street line (back of curb) or sidewalk. The maximum height of any post sign is 24 feet. Where the lot adjoins the R-1 District, the exterior sign shall be attached flat against the building and shall not face the R District.
 - C. In the C-1 and C-2 Districts no sign shall project more than four feet above the roof line. Signs shall not have a surface of greater than 40 square

feet on any one side thereof and not more than two sides of post sign shall be used for advertising purposes.

4. Industrial Districts. All signs allowed within the commercial district are allowed within the industrial district.

5. Outdoor Advertising Signs (off-site signs).

A. In all districts where permitted, signs shall be set back from the proposed right-of-way line of any State or federal highway, any major City thoroughfare so designated by the official major street plan, and from the right-of-way line of any other street or highway.

B. No signs shall be permitted on corner lots in the triangle formed by measuring 100 feet along the curb line of each street and then running a line between the two end points.

C. No such sign shall be permitted which faces the front or side lot line of an R-1 lot and is within 100 feet of such R-1 lot lines.

165.38 PLANNED UNIT DEVELOPMENTS.

1. Purpose. Any planned unit development shall promote to the extent possible and without adversely affecting adjacent property:
 - A. A maximum choice in the types of environment available to the public by allowing a development which would not be possible under the strict application of the Zoning Ordinance.
 - B. The permanent preservation of open areas and recreational facilities.
 - C. A creative approach to the use of land and related physical facilities which results in better development, design and construction.
 - D. A development which is consistent with the spirit and intent of the City’s comprehensive plan.
 - E. The efficient use of land resulting in more economic networks of utilities, streets and other facilities.
 - F. A use of land which promotes the health, safety, comfort, morals, and welfare of the public.
 - G. The foregoing shall not be interpreted to permit the reduction of the other zoning standards.

2. Permitted Uses. The permitted uses within any planned unit development shall be limited to the following:
 - A. Single-family, two-family, townhouse, row house and multiple-family residential.
 - B. Parks and playgrounds.
 - C. Customary accessory or associated uses, such as private garages, storage spaces and recreational and community facilities.

3. Density. The maximum residential density within any planned unit development shall be as follows:

1.	Type of Development	1.	Maximum Density
2.	Single-family dwelling	2.	7 units per acre
3.	Two-family dwelling	3.	8 units per acre
4.	Townhouse dwelling	4.	11 units per acre
5.	Multi-family dwelling	5.	12 units per acre

- 4.
5. Yard Requirements. The minimum yard requirements within any planned unit development shall be as follows:

1.	Type of Development	1.	Front	1.	Rear	1.	Side
2.	Single-family dwelling	2.	10 feet	2.	5 feet	2.	5 feet
3.	Two-family dwelling	3.	10 feet	3.	5 feet	3.	5 feet
4.	Townhouse dwelling	4.	10 feet	4.	5 feet	4.	5 feet
5.	Row house dwelling	5.	10 feet	5.	5 feet	5.	5 feet
6.	Multi-family dwelling	6.	10 feet	6.	5 feet	6.	5 feet

- 6.

Provided, nothing herein contained shall reduce the yard abutting upon any public street to less than 10 feet.

7. Signs. Signs within any planned unit development shall be restricted to those signs permitted by Section 165.37.

8. Design Standards. All improvements within any planned unit development, including street pavement, the sidewalks and the electric, sewer, water and gas lines and mains, shall be built to the design standards of the City.

9. Special Exceptions.

A. The petition for special exception pursuant to the provisions of this chapter shall include a site development plan.

B. Prior to the granting of special exception pursuant to this chapter, the Board of Adjustment shall refer the petition for the special exception and all supporting documents to the Zoning Commission for its review and recommendation.

C. Any decision of the Board of Adjustment relative to the development shall include, but not by limitation, findings of fact on the following:

(1) The extent to which the development is consistent with the purposes of planned unit developments as set forth in this chapter.

(2) The extent to which the development meets the requirements and standards of planned unit developments as set forth in this chapter.

(3) The manner in which the development conforms with the intent and spirit of the City's comprehensive plan.

(4) The reasons why the granting of the special exception is deemed to be in the public interest.

(5) The relationship and compatibility of the development to the adjacent properties and neighborhood.

(6) The desirability of the development as it relates to the well-being of the City.

D. Any special exception granted pursuant to this chapter shall be expressly subject to such conditions as may be necessary to fully carry out the intents and purposes of this chapter and the City's comprehensive plan

E. The petition for the special exception and all supporting documents and the conditions to which the special exception is subject shall be binding upon the titleholders and upon their successors in interest, and shall limit and control the use of the development and the location of buildings and structures within the development as therein set forth.

F. Upon the granting of a special exception pursuant to this chapter, the Zoning Administrator shall issue building permits for construction within the development, provided that the application for such permits conforms to the petition for the special exception and all supporting documents and the conditions to which the special exception is subject.

165.39 NONCONFORMING BUILDINGS, STRUCTURES AND USES.

1. **Nonconforming Building.** A lawful, or authorized, nonconforming building or structure existing at the time of adoption of the Zoning Ordinance may be continued, maintained, and repaired, except as otherwise provided in this section even though said building or structure may not conform with the regulations of this chapter for the district in which it is located. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe.
2. **Alteration or Enlargement of Building and Structures.** A nonconforming building or structure shall not be added to or enlarged in any manner unless said building or structure, including additions and enlargements, is made to conform to all the regulations of the district in which it is located; provided, however, if a building or structure is conforming as to its use, but nonconforming as to yards or height or off-street parking space, said building or structure may be enlarged or added to provided that the enlargement or addition complies with the yard and height and off-street parking requirements of the district in which said building or structure is located. No nonconforming building or structure shall be moved in whole or part to another location on the lot unless every portion of said building or structure is made to conform to all of the regulations of the district in which it is located.
3. **Building Vacancy.** A building or structure, or portion thereof, which is nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.
4. **Destruction of Nonconforming Building or Structure.** Any nonconforming building or structure which has been or may be damaged by fire, flood, explosions, earthquake, war, riot, or any other act of God, may be reconstructed and used as before if it can be done within 12 months of such calamity, unless damaged more than 50 percent of its fair market value, as determined by the Board of Adjustment, at the time of the damage, in which case reconstruction shall be in accordance with the provisions of this chapter.
5. **Change of Uses.**
 - A. A nonconforming use of a conforming building or structure may be expanded or extended into any other portion of the structure provided the structure was manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified in this chapter, but no such use shall be extended to occupy any land outside such building.
 - B. If such a nonconforming use, or a portion thereof, is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located. A vacant or partially vacant conforming building or structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of one year after the effective date of this chapter, but otherwise it shall be used in conformity with the regulations of the district in which it is located.
 - C. The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification; but where the use of nonconforming building or structure is changed to a use of a more restricted district classification it thereafter shall not be changed to a use of a less

restricted district classification; provided, however, a building or structure that is nonconforming at the time of adoption of the Zoning Ordinance is not in violation. For the purpose of this subsection only, the R-1 District shall be considered the most restrictive and the M-1 Manufacturing/Industrial District the least restrictive district.

6. Nonconforming Uses of Land. A lawful, or authorized, nonconforming use existing at the time of adoption of the Zoning Ordinance may be continued, maintained, and repaired, except as otherwise provided in this section. Any nonconforming use in existence at the adoption hereof that was not a lawful, or authorized use under previous zoning ordinances shall not be authorized to continue as a nonconforming use pursuant to this chapter, or amendments thereto. A nonconforming use may not be extended or expanded, nor shall it occupy more lot area or be considered a more intense use than was in existence on the effective date of this chapter.

7. Nonconforming Lots. A lawful, or authorized, nonconforming lot existing at the time of adoption of the Zoning Ordinance may be continued, maintained, and repaired, except as otherwise provided in this section. Any nonconforming lot in existence at the adoption thereof that was not a lawful, or authorized use under previous zoning ordinances shall not be authorized to continue as a nonconforming lot pursuant to this chapter, or amendments thereto. A nonconforming lot in existence on the effective date of the Zoning Ordinance shall be considered a lot of record, as defined and regulated within this chapter.

165.40 ADDITIONAL REQUIREMENTS, EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS. The requirements and regulations specified elsewhere in this chapter shall be subject to additional requirements, exceptions, modifications, and interpretations contained in this section.

1. Height and Size Limits. Height limitations stipulated elsewhere in this chapter shall not apply in the following situations:

A. To barns, silos, or other farm buildings or structures on farms provided these are not less than 50 feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts, and aerials; to parapet walls extending not more than four feet above the limiting height of the building. However, if in the opinion of the Zoning Administrator, such structure would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.

B. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors, wind generators and scenery lofts; to monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height than specified, such may be authorized by the Board of Adjustment.

C. Telecommunication towers and other towers.

2. Rear Yard Exceptions and Modifications. The following projections or structures may be permitted in rear yards: accessory buildings or structures subject to the provisions contained elsewhere in this chapter.

A. In any Commercial or Residential District, a building which is nonconforming as to rear yard setbacks may be expanded or enlarged, provided

the enlargement or expansion does not encroach closer to the rear property line than the already existing building. All other Bulk Requirements must be met.

- B. Accessory buildings or structures subject to the provisions contained elsewhere in this chapter.
- C. Fences or walls, not over six feet above the average natural grade.
- D. Fire escapes, bays and balconies.
- E. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, and the like.
- F. Terraces, steps, uncovered porches, or similar features.
- G. Swimming pools.

165.41 ADMINISTRATION AND ENFORCEMENT.

1. Organization. The administration of this chapter is vested in the following four offices of the government of the City: Mayor and City Council; Board of Adjustment; Zoning Commission; and Zoning Administrator.
2. Basis of Regulations. Regulations are made in accordance with the *Code of Iowa*, Chapter 414, as amended, and with the City's Comprehensive Plan. These regulations are designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water sewerage, schools, parks, and other public requirements.
3. Mayor and City Council. The Mayor and City Council shall discharge the following duties under this chapter. Appointments shall be made by the Mayor, subject to approval by the City Council.
 - A. Appoint a Zoning Administrator, whose responsibilities it will be to enforce the provisions of this chapter.
 - B. Appoint members of the Board of Adjustment as provided for in this chapter.
 - C. Appoint members to the Zoning Commission as provided for in this chapter.
 - D. Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Zoning Commission.
 - E. Receive from the Zoning Commission all recommendations on the effectiveness of this chapter.
 - F. To decide all matters upon which it is required to pass under this chapter.
4. Board of Adjustment. The Board of Adjustment, as established under applicable provisions of the *Code of Iowa*, is the Board referred to in this chapter.

A. Appointment; Terms; Removal. The Board shall consist of five members, who are residents, to be appointed by the Mayor and subject to approval by City Council for staggered terms of five years. A majority of the members of the Board shall be persons representing the public at large. The Board of Adjustment members shall not also be members of the Zoning Commission or City staff, and members shall not hold an elective office in municipal government nor shall a majority of the members be involved in the business of purchasing or selling real estate. Members of the Board may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Mayor, subject to City Council approval for the unexpired term of the member affected. There shall be no term limits for the Board of Adjustment.

B. Powers and Duties. The Board of Adjustment is hereby vested with the following powers and duties:

- (1) To hear and decide all applications for variances from the terms provided in this chapter in the manner prescribed and subject to the standards herein.
- (2) To hear and decide all applications for special exceptions in the manner prescribed in this chapter.
- (3) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter. The Board shall also interpret the Official Zoning Map, if necessary.

C. Meetings and Rules. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each agenda item requiring action, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be filed in the office of the Zoning Administrator and City Clerk. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter. At the first meeting of each calendar the Board of Adjustment members shall name a Chair and Vice Chair for that coming year. If one of those officers shall choose not to be a member of the Board during the year, a new officer shall be selected by the remaining Board members for the remaining term of that calendar year. A Chairperson can serve for multiple terms.

D. Finality of Decisions of the Board of Adjustment. All decisions and findings of the Board of Adjustment on appeals applications, applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as is stated in the *Code of Iowa*.

5. Variances.

A. Purpose and Findings of Fact. The Board of Adjustment, after a public hearing, may determine and vary the regulations of this chapter in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter.

B. Application for Variance. An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information, and appropriate non-refundable fee, as the Board of Adjustment may, by rules, require.

C. Hearing on Application. Upon receipt in proper form of the application, the Board of Adjustment shall hold at least one public hearing on the proposed variance. Notice of time and place of such hearing shall be published not less than seven days nor more than 20 days in advance of the public hearing in a newspaper of general circulation in the City. Property owners within 200 feet of the property for which the change is being requested shall be notified as a courtesy as well. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City to cover the publishing and administration costs of said request, per the adopted fee schedule.

D. Standards for Variance. The Board of Adjustment shall not vary the regulations of this chapter, as authorized in this section, unless there is evidence presented to it in each specific case that:

(1) Special conditions and circumstances exist which are unique to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. Special conditions shall include (but not be limited to) a property owner who can show that said owner's property was acquired in good faith and where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where, by reason of exceptional topographic conditions or other exceptional or extraordinary situations, the strict application of the terms of this chapter actually prohibits the use of the property in manner reasonably similar to that of other property in the district.

(2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter. In other words, an unnecessary hardship would result from literal enforcement of this chapter.

(3) Special conditions and circumstances do not result from the actions of the applicant.

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

E. Further Requirements.

(1) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(2) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and the Montezuma Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(3) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under this chapter.

(4) Under no circumstances shall the Board of Adjustment grant a variance to allow for a use not permissible under the terms of this chapter in the District involved, or any use expressly or by implication prohibited by the terms of this chapter in the District.

(5) If property lines cannot be determined through existing surveys or property markers, the request must be accompanied by a certified survey.

F. Denial and Revocation of Variance.

(1) Denial. No application for a variance that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of change of conditions that may be found to be valid by the Board of Adjustment.

(2) Revocation. In any case where variance has not been established within one year after the date of granting thereof, the Board shall provide notice to the applicant that the approved variance may be revoked. Said notice shall offer the applicant an opportunity to be heard by the Board of Adjustment. The Board may, after this process, revoke or extend the approved variance.

6. Special Exceptions.

A. Purpose. The development and administration of this chapter is based upon the division of the City into Zoning Districts, within said Districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized that there are certain uses, because of their unique characteristics, cannot be properly classified in any particular District or Districts, without special consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use that locations. Such special exceptions fall into two categories:

(1) Uses publicly operated or traditionally affected with a public interest, and

(2) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

B. Initiation of Special Exceptions. Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one or more of the special exceptions provided for in this chapter in the zoning district in which the land is located.

C. Application for Special Exception. An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by an appropriate non-refundable fee and such plans and/or data prescribed by the Board of Adjustment and shall include a statement indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

D. Hearing on Application. Upon receipt in proper form of the application and statement, the Board of Adjustment shall hold at least one public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than seven days or more than 20 days in advance of the public hearing in a newspaper of general circulation in the City. Property owners within 200 feet of the property for which the exception is being requested shall be notified as a courtesy as well. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City to cover the publishing and administration costs of said request, per the adopted fee schedule.

E. Authorization. For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment findings and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.

F. Standards. No special exception shall be granted by the Board of Adjustment unless such Board shall find:

(1) The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

(2) The special exception will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood.

(3) The establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(4) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided and that the request not impair an adequate supply of air or light to adjacent properties.

(5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) The special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.

(7) The special exception shall be consistent with the Montezuma Comprehensive Plan and this Code of Ordinances.

G. Conditions and Guarantees. Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Paragraph E above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be met.

H. Denial and Revocation of Special Exception.

(1) Denial. No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.

(2) Revocation. In any case where special exception has not been established within one year after the date of granting thereof, the Board shall provide notice to the applicant that the approved exception may be revoked. Said notice shall offer the applicant an opportunity to be heard by the Board of Adjustment. The Board may, after this process, revoke or extend the approved exception.

7. Appeals of the Staff and Other Powers of the Board of Adjustment.

A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by a decision of the Zoning Administrator or official in enforcement of this chapter. Such appeal shall be taken to the Board within a reasonable time, as prescribed by the Board's Rules of Procedure. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

B. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal shall have been filed, that by reason of the facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Board or by a court of record on application of notice to the Zoning Administrator and due cause shown.

C. The Board shall hold one public hearing and shall give a reasonable time for the hearing on the appeal. Notice of time and place of such hearing shall be published not less than seven days or more than 20 days in advance of the public hearing in a newspaper of general circulation in the City. Property owners within 200 feet of the property for which the appeal is being requested shall be notified as a courtesy as well. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to the City to cover the publishing and administration costs of said request, per the adopted fee schedule.

D. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper and to that end will have the powers of the Zoning Administrator. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter which it is required to pass under this chapter, provided that the action of the Board shall not become effective until after the written decision or resolution of the Board, setting forth the full reason for its decision and the vote of each participating member has been recorded in the minutes. Said written decision or resolution shall be filed in the office of the Zoning Administrator and shall be open to public inspection.

8. Interpretation of District Map. Where the application of the rules for interpretation of district boundaries leaves a reasonable doubt to the boundary between two Zoning Districts the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purposes of this chapter.

9. Appeals of Board of Adjustment Decisions. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of said decision, in the manner provided by the laws of the state and particularly by the *Code of Iowa*.

10. Zoning Commission.

A. Creation. The Zoning Commission of the City, as established under the applicable provisions of the *Code of Iowa*, is the Zoning Commission referred to in this chapter.

B. Membership. The Zoning Commission shall consist of three members, who are residents, to be appointed for staggered terms of five years. Said Zoning Commission shall consist of persons who are qualified by knowledge or experience to act in matters pertaining to the development of City planning and who shall not hold any elective office in the municipal government or be a member of the Board of Adjustment or City staff. Members shall be appointed by the Mayor, subject to the approval of the City Council. Vacancies shall be filled by appointments for unexpired terms only. All members of the Commission shall serve without compensation except for actual expenses, which shall be subject to the approval of the City Council. Immediately following their appointment, the members of the Zoning Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter, rules and regulations of organization and procedure consistent with City Ordinances and State laws. The Commission shall keep

written records of its proceedings which shall be filed with the Zoning Administrator and City Clerk and open at all times to public inspection.

C. Powers and Duties. The Zoning Commission shall hold the following powers, discharge the following duties, and make recommendations to the City Council under this chapter. Included are the following responsibilities:

- (1) Review and make recommendations regarding the adoption or amendment of the Montezuma Comprehensive Plan.
- (2) Review and make recommendations regarding the adoption or amendment of this chapter. This includes all amendments to the written, map, and application components of the Ordinance, as well as any other duties or responsibilities assigned to the Commission within this chapter.
- (3) Conduct the necessary public hearings, as prescribed under the Montezuma Comprehensive Plan, this chapter, or the *Code of Iowa*.
- (4) Review, adopt, and amend the Commission's Administrative Rules or Rules of Procedure, which govern the actions of the Commission.
- (5) Rely on the City Council to provide sufficient staffing in order to ensure that the business of the Commission is addressed in a timely fashion.
- (6) Review any other land use change or issue, which at the direction of the City Council, are sent to the Commission for consideration and recommendation.
- (7) Amendments made to the Montezuma Comprehensive Plan and to this chapter shall, when directed by the City Council or an applicant, be considered by the Zoning Commission within 30 days of their receipt.

11. Zoning Administrator.

A. Designation of Zoning Administrator. The Zoning Administrator shall be designated by the Mayor and subject to the approval of the City Council.

B. Powers and Duties of the Zoning Administrator. The Zoning Administrator shall enforce this chapter and in addition shall:

- (1) Issue all building permits and collect any fees.
- (2) Process and review all applications for variances, special exceptions, and interpretation for referral to the Board of Adjustment.
- (3) Respond to complaints of alleged violations to the Zoning Ordinance. If after response by the Zoning Administrator the complaint remains unresolved, the issue shall be referred by the Administrator to the Mayor and City Council for resolution.
- (4) Provide applications and forms and maintain public information relative to all matters arising out of this chapter.
- (5) Process and review all applications for rezoning prior to consideration by the Zoning Commission.

- (6) Review site plans for conformance with this chapter.
 - (7) Attend meetings of the Zoning Commission and the Board of Adjustment, as well as carry out duties that may be requested by both bodies.
12. Amendments to the Zoning Ordinance.
 - A. Procedure. The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed by the City Council. No such amendments shall be made final without: (i) the applicant completing a rezoning application, unless the City is the applicant; (ii) holding a public hearing before the Zoning Commission, who shall thereafter send a recommendation to the City Council; and (iii) after a public hearing is held by the City Council and the proper ordinance amendment procedures, as required by the *Code of Iowa*, are followed by the City Council. The notice of the time and place of the hearings shall be published in a newspaper with general circulation in the City not less than seven days or more than 20 days before either of the public hearings. Property owners within 200 feet of the property for which the amendment is being requested shall be notified of the hearings as a courtesy as well. In no case shall the City Council hearing be held earlier than the next regularly scheduled City Council meeting after the Zoning Commission hearing. In case the Zoning Commission does not approve the change, or in the case of a protest filed with the City Council against such change signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent to, not to exceed 200 feet, such amendments shall not be passed except by the favorable vote of three-fourths of all members of the City Council. As part of an amendment to this chapter changing land from one zoning district to another zoning district, or as part of approving a site development plan, the City Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs that are directly caused by the requested change.
 - B. Ordinance Amendment Application (Text or Map/Rezoning Amendments). An application for rezoning shall contain the following items:
 - (1) The legal description and local address, if applicable, of the property to be rezoned.
 - (2) The present zoning classification and the zoning classification requested for the property.
 - (3) The existing use and proposed use of the property.
 - (4) The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
 - (5) A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

(6) A plat or sketch showing the locations, dimensions, and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.

(7) The property owner's signature.

C. Fees. Before any action is taken upon an application as provided in this section, the applicant shall pay the Zoning Administrator a non-refundable fee. The applicant shall pay this fee to the credit of the general revenue fund of the City. Failure to approve the change, by either the Zoning Commission or City Council, will not be construed as any reason for refunding the fee to the applicant.

165.42 BUILDINGS CONSTRUCTION, CERTIFICATES, FEES.

1. Building Construction. No building or structure shall hereafter be erected, constructed, reconstructed, enlarged, moved, or converted unless a separate permit for each building or structure has first been obtained from the Zoning Administrator. Said permit and the application for the permit shall contain a plot plan showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building or structure to be erected or affected, the name and address of the owner or owners of the involved lot, and such other information as may be necessary to provide for the enforcement of this chapter. The application and permit shall be on forms prepared by the Zoning Administrator and approved by the Council. No permit shall be issued for any construction not in compliance with this chapter. Any construction started without a permit shall be stopped immediately, and shall be subject to the remedies of this section.

2. Commencement and Completion of Construction. An applicant who is issued a zoning permit under the provisions of this chapter is bound, by acceptance of the permit, to commence the construction for which the permit is issued within six months from and after the date of issue of said permit, and is bound to finish said construction within 12 months from and after said date of issue. Failure to commence construction within six months shall cause the permit to expire. A zoning permit issued under the provisions of this chapter shall be valid for a period of 12 months from and after the date of issue of said permit. Upon expiration of a permit, the holder shall make a new application for a new permit under the provisions of this chapter and shall otherwise go through the same procedure as required for issuance of the original zoning permit. The fee for the second permit, as in the case of the original permit fee, shall be set by resolution by the City Council. The Zoning Administrator can issue extensions as long as there is obvious progress.

3. Structure Standards. The following standards shall apply to all structures and all construction for which building permits are issued on or after the effective date of the Zoning Ordinance:

A. All dwellings shall be affixed to a permanent foundation system in accordance with building construction standards.

B. All structures shall comply with all requirements of this chapter, including all requirements contained in the definitions of this chapter, including, without limitation, the definitions of "dwelling(s), and "fence"; all bulk requirements; and all other provisions of this Code of Ordinances.

4. Applications and Non-Refundable Fees. The Zoning Administrator is instructed to issue permits upon properly approved written applications under this chapter, and charge a non-refundable fee as determined by the City Council and adopted by resolution. If the City initiates any of the actions listed below, it shall not be required to pay the corresponding fee. Applicable fees include, but are not limited to, the following.

- A. Zoning Map Amendments (Rezoning Requests) or Ordinance Text Amendments - \$250.00 + fees for publications and mailings.
- B. Variances - \$50.00
- C. Special Exceptions - \$50.00
- D. Appeals of Staff Interpretations and Decisions - \$50.00
- E. Building Permits - \$100.00 for commercial activities; and \$50.00 for residential activities, except \$10.00 for accessory uses that are 200 square feet or less.

165.43 VIOLATIONS AND LEGAL REMEDIES.

1. Notice to Violators. If the Zoning Administrator finds that any provision of this chapter is being violated, they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter or by this Code of Ordinances to insure compliance with or to prevent violation of its provisions.

2. Responsibility. The owners, or tenant, of any building, structure, land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation of this chapter may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

3. City Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the City may, in addition to other remedies, institute an injunction, municipal infraction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation. A violation of this chapter shall be deemed a violation of City Code and thus a municipal infraction, under this Code of Ordinances, and punishable as such. Any construction started without a permit or which does not comply with the requirements of this Code of Ordinances shall be removed immediately. The City Council may, without limitation, provide for abatement of such infraction, pursue civil action in court, or prosecute such violation, such action to be prosecuted in the name of the City, or may pursue any combination of remedies. 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, which shall include injunctive relief.

CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 TITLE. This chapter shall be known and may be cited as “The City of Montezuma, Iowa, Subdivision Control Ordinance.”

170.02 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City. This chapter is intended to impose a subdivision plat requirement in many situations where State law does not or may not impose such a requirement.

170.03 AUTHORITY. These regulations are adopted pursuant to the authorization contained in Chapter 354 of the *Code of Iowa*, as amended, and this chapter shall be applied and interpreted consistently with the provisions of Chapter 354. However, where the requirements of this chapter are more stringent than Chapter 354, this chapter shall control.

170.04 TERRITORIAL APPLICATION. This chapter shall apply to subdivisions of and subdivision plats prepared for any land located within the corporate limits of the City and, pursuant to Section 354.9 of the *Code of Iowa*, to any land located within two miles of the corporate limits which is within the State of Iowa and not within the corporate limits of any other City.

170.05 DEFINITIONS. As used in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. “Aliquot part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
2. “Alley” means a public service way or right-of-way, other than a street, designed to provide a secondary means of access to abutting property.
3. “Auditor” means the County Auditor of Poweshiek County, Iowa.

4. “Auditor’s plat” means a subdivision plat required by the Auditor, prepared by a surveyor under the direction of the Auditor.
5. “Block” means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
6. “Building line” means a line on a plat between which line and public right-of-way no buildings or structures may be erected.
7. “City Engineer” means a licensed engineering firm in the State, employed by the City, and working on behalf of the City.
8. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
9. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance, plat of survey or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for purposes of this chapter.
10. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner’s property. Such purpose shall be in writing on the face of the final plat.
11. “Final plat” means the graphical representation of a subdivision of land prepared in the form which, if approved by the Council, will be filed and recorded with the County Recorder.
12. “Frontage road” means a local or collector street auxiliary to and located on the side of an arterial street for control of access and to collect and distribute traffic to abutting development.
13. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.
14. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
15. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of Iowa Code Chapter 354 and this chapter and has been filed for record in the offices of the County Recorder, Auditor and Assessor. Any plat which is a “subdivision plat” as defined in Iowa Code Section 354.2(17) and which was recorded in the offices of the County Recorder and Auditor prior to the effective date of the ordinance codified in this chapter, shall be deemed an “official plat” for purposes of this chapter.
16. “Parcel” means a part of a tract of land.
17. “Performance bond” means a guarantee in writing backed by substantial assets pledged by any financial institution, insurance company, or other party of substantial financial standing being bound with its principal for the payment of a sum of money or for the performance of some duty or promise required of the party being serviced and being of sufficient amount to secure to the City that the required subdivision improvement will be provided in accordance with this chapter.

18. "Plat of survey" means the graphical 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.
19. "Preliminary plat" means the graphical representation of a subdivision of land, prepared by a registered land surveyor, indicating the proposed manner or layout of a subdivision, which is submitted to the Council for consideration and preliminary approval, and is used as the basis for drafting a final plat.
20. "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 a mortgage, easement or lien interest.
21. "Street" or "road" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place or other appropriate designation.
22. "Street, arterial" means an existing or proposed street which is or would be planned to carry through traffic on a continuous route through the City, and is identified as such on the City's street plan map.
23. "Street, collector" means a street intended to carry vehicular traffic from local or minor streets to arterial streets or traffic generators.
24. "Street, local" means a street used primarily for access to abutting property.
25. "Subdivider" means the proprietor of a tract or parcel of land who divides or proposes to divide such tract or parcel in such a manner as to cause or create a subdivision.
26. "Subdivision" means a tract or parcel of land divided or proposed to be divided, either by repeated or simultaneous divisions, so as to cause there to be three or more parcels in a single tract. The existence of a subdivision shall be determined without regard to any of the following:
 - A. Whether the divisions are carried out by the same or successive owners of the tract or parcel,
 - B. Whether any parcels resulting from the division are described by metes and bounds, and
 - C. Whether any plats of survey have been or are proposed to be recorded for any of the parcels.

The existence of a subdivision shall be determined with reference to the smallest tract of which the land divided or to be divided is a part, taking into account any parcels created from the same tract by previous divisions but disregarding any tract previously created from part of the same tract. If the land to be divided constitutes a previously undivided tract, such tract shall be deemed the "smallest tract" for purposes of the preceding sentence. If contiguous tracts or parcels are subdivided simultaneously, all the land involved may be treated as a single subdivision.

27. "Subdivision plat" means the graphical representation of a subdivision of land or all of that part of a subdivision of land owned by the subdivider, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for Poweshiek County, Iowa. Both

“preliminary plats” and “final plats” are subdivision plats. A subdivision plat shall cover only land owned by the subdivider unless adjoining land owners are jointly subdividing their properties.

28. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to the *Code of Iowa*.

29. “Tract” means an aliquot part of a section or a lot within an official plat. For purposes of determining the existence of a subdivision, a tract located within a larger tract shall not be considered a part or division of the larger tract.

170.06 SUBDIVISION PLAT REQUIREMENTS. Except as provided in this section, a subdivision plat shall be made and recorded when a subdivision is caused or created. A subdivision plat is not required when land is divided by conveyance to a governmental agency for public improvement purposes or, unless required by State law, by any plat of survey or conveyance by the City.

170.07 COMPLIANCE AND ENFORCEMENT. The subdivision of land located within the territory to which this chapter applies shall be governed by this chapter and every subdivider of land shall comply with the requirements of this chapter. However, the provisions of this chapter shall apply to Auditor’s plats which are also subdivision plats only to the extent consistent with the provisions of Iowa Code Chapter 354. In addition to other remedies or penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. Recording Prohibited. No subdivision plat or any other document causing or creating a subdivision of land shall be recorded in the office of the Poweshiek County Recorder, nor shall any such plat or subdivision have any validity in the absence of compliance with the provisions of this chapter, including approval or waiver of review by resolution of the Council as prescribed herein.

2. Public Improvements. If a subdivision plat or other document causing or creating a subdivision of land is recorded in violation of this chapter, no streets or other public use areas within the subdivided land shall be recognized by the City or deemed accepted by the Council for public use, nor shall any City funds be expended for public improvements, maintenance or other services within the subdivided land; nor shall any public funds be expended for such purposes with respect to subdivision plats approved in accordance with this chapter until all public improvements required as a condition of such approval have been installed, inspected and accepted by the Council unless otherwise provided in an agreement entered into pursuant to subsection 170.25(4) of this chapter.

3. Municipal Infraction. It is a municipal infraction for any proprietor to violate any provision of this chapter.

4. Action to Annul Plat. If a subdivision plat is filed and recorded in violation of this chapter, the Council, after filing written notice with the proprietors who have joined in the acknowledgment of the plat or their successors in interest, may institute a suit in equity in district court for annulment of the plat pursuant to *Code of Iowa* Section 354.20.

170.08 APPLICATION AND FEE. Every subdivider seeking approval of or waiver of review by the Council of a proposed subdivision plat shall complete and file with the Clerk, with the preliminary plat, an application for approval of the subdivision plat on a form supplied

by the Clerk. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by resolution of the Council.

170.09 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall first prepare and file with the Clerk seven copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitations.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the City.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
12. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the Council waives this requirement.

170.10 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer two copies of the preliminary plat to the City Engineer and five copies to the Council. In the alternative, in appropriate cases where, because of minimal scope, it appears a proposed subdivision will have not appreciable impact on community development or the provision of public improvements or services, the Clerk, with the approval of the Mayor, may refer the preliminary plat directly to the Council.

170.11 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices and shall, as soon as possible, submit findings in duplicate to the Council, together with one copy of the plat received.

170.12 ACTION BY THE COUNCIL. The Council shall, upon receiving the report of the City Engineer, or upon direct referral by the Clerk, as soon as possible, but not more than 90 days thereafter, consider said report, if any, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Council does not act within 90 days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed an additional 60 days. The Council shall then set forth its decision by resolution, whether of approval, modification, disapproval or waiver of right to review.

1. In the event that substantial changes or modifications are made by the Council or disapproval of the plat, the Council shall give its reasons therefor and may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. If approved, the Council shall express its approval as “Conditional Approval” and state the conditions of such approval, if any.
3. The action of the Council shall be noted on five copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other copies retained by the Council.
4. The “Conditional Approval” by the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.
5. In appropriate cases where, because of minimal scope, a proposed subdivision will have no appreciable impact on community development or the provision of public improvements or services, the Council may grant a waiver of the right to review the subdivision plat. A waiver of the right to review shall constitute the grant of a variance of all standards and requirements imposed by this chapter except that the final plat attachments specified in Subsections 1 through 6 of Section 170.16 shall not be subject to waiver if the plat includes any areas or improvements to be dedicated to the public. If the right to review is waived by the Council, the requirements of this chapter relating to final plats shall not be applicable except with respect to final plat attachments as set forth in this subsection.

170.13 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

170.14 REFERRAL OF FINAL PLAT. The subdivider shall, within 12 months of the “Conditional Approval” of the preliminary plat by the Council, prepare and file seven copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon failure to do so within the time specified, the “Conditional Approval” of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Council. Upon receipt of the final plat and other required documents, the Clerk shall transmit five copies of the final plat to the Council for its consideration and approval.

170.15 REQUIREMENTS OF THE FINAL PLAT. The final plat shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch and shall show the following:

1. The title under which the subdivision is to be recorded.

2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the standards of the Poweshiek County E-911 Board. The Council shall be the final authority for determining street names.
4. Location, type, materials, and size of all monuments and markers including all U.S., County or other official bench marks.
5. The plat should be signed and acknowledged by the subdivision land owner and his or her spouse.
6. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

170.16 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.
2. 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.
3. 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, together with a duly executed and acknowledged release of such mortgages or liens with respect to any areas proposed to be dedicated to the public. In lieu of such written consents and releases by mortgage holders or lienholders, an affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be submitted with the final plat.
4. 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.
5. A certificate of the County Treasurer that the land included in the proposed plat 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*. If the plat includes no land set apart for streets, alleys, parks, open areas, school property or other public use other than utility easements, the certificate of the Treasurer need only state that the land is free from certified taxes other than certified special assessments.
6. A complete statement of restrictions of all types that will run with the land and become covenants in all conveyances of lots in the subdivision.

7. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a 50-foot horizontal scale and a five-foot vertical scale with west or south at the left.
8. A certificate by the proprietor's engineer that all required improvements have been completed in accordance with City specifications, or that a performance bond guaranteeing completion of all required improvements has been approved by the City Attorney and filed with the Clerk, or that an agreement relating to the future construction of the required improvements has been entered into between the City and the subdivider pursuant to Section 170.25(4) of this chapter. If such an agreement exists, a copy of it shall also be attached to the final plat.
9. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
10. The encumbrance bond, if any.

170.17 ACTION BY THE COUNCIL. Upon receipt of the final plat, as soon as possible, but not more than 30 days thereafter, the Council shall either approve or disapprove the final plat by resolution.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall approve the same.
3. The passage of a resolution by the Council approving the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.
4. Approval of the final plat by the Council shall constitute a variance as to any requirements of this chapter with regard to which there has not been compliance, except for the plat attachment requirements specified in subsections 1 through 6 of Section 170.16.

170.18 DESIGN STANDARDS FOR STREETS AND ALLEYS. The following design standards shall be followed by all subdividers:

1. General Requirements.
 - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
 - B. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - C. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Council to meet a particular situation where topographical or other conditions make continuation or conformance to existing streets impracticable.

- D. Half streets shall be prohibited except where essential to the reasonable development of the subdivision and adjoining tract, and where the Council finds it reasonable to require dedication of the other half when the adjoining tract is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
2. Right-of-Way. Minimum rights-of-way shall be provided as follows:
- A. Arterial Streets – 66 feet minimum. Greater width may be required in accordance with City, County or State plans.
 - B. Collector streets – 66 feet.
 - C. Residential streets – 66 feet.
 - D. Cul-de-sacs – 120 feet in diameter.
 - E. Alleys – 16.5 feet.
3. Surface Width. Minimum width of surfacing to be provided shall be as follows:
- A. Arterial streets – 45 feet, including curb and gutter.
 - B. Collector and local streets – 24 feet, including curb and gutter.
 - C. Cul-de-sacs – 100 feet in diameter, including curb and gutter.
 - D. Alleys – 16.5 feet.
4. Acreage Subdivisions.
- A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
 - B. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
 - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
5. Minor Streets.
- A. Minor streets shall be so planned as to discourage through traffic.
 - B. Cul-de-sac streets are permitted where topography and other conditions justify their use.
6. Frontage Streets.
- A. Where a subdivision abuts or contains an existing or proposed arterial street, the Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
 - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Council may require a street

approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

7. Street Geometrics.
 - A. Street jogs with centerline offsets of less than 125 feet shall be avoided.
 - B. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
 - C. Cul-de-sacs shall not exceed 600 feet in length.
 - D. Proposed streets shall be adjusted to the contour of the land where possible so as to produce usable lots and streets of reasonable gradient.
 - E. No dead-end streets or alleys, other than cul-de-sacs, will be permitted.
 - F. Arterial and collector streets in a subdivision shall extend through the boundaries thereof.
 - G. Intersection of more than two streets at a point shall not be permitted.
 - H. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the Council shall determine for special cases.
8. Intersections.
 - A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
 - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.
 - C. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the Council may deem it necessary. The Council may permit comparable cutoffs or chords in place of rounded corners.
9. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new street shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council.
10. Street Grades.
 - A. Street grades, wherever feasible, shall not exceed five percent, with due allowance for reasonable vertical curves.
 - B. No street grade shall be less than one-half of one percent.
11. Alleys.
 - A. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

- B. The width of an alley shall be 16.5 feet.
- C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Council.

170.19 DESIGN STANDARDS FOR BLOCKS.

- 1. No block may be more than 1,320 feet or less than 330 feet in length between the centerlines of intersecting streets, except where, in the opinion of the Council, extraordinary conditions unquestionably justify a departure from these limits.
- 2. In blocks over 700 feet in length, the Council may require at or near the middle of the block a public way or easement of not less than 10 feet in width for use by pedestrians and/or as an easement for public utilities.

170.20 DESIGN STANDARDS FOR LOTS. Lot design standards shall be as follows:

- 1. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated, provided:
 - A. Residential lots where not served by public sewer shall not be less than 80 feet wide nor less than one acre in area.
 - B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
 - C. Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.
- 2. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.
- 3. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- 4. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

170.21 BUILDING LINES. Building lines shall be shown on all lots within the platted area in accordance with the needs of each subdivision or as the Council may require.

170.22 EASEMENTS.

- 1. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least 10 feet wide. If for any reason the property adjoining a lot subject to an easement required under this subsection is not subject to a

similar easement, the easements required by this subsection shall be not less than 20 feet in width.

2. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.

170.23 PLAT MARKERS. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City Engineer. The markers shall be of such material, size and length as may be approved by the City Engineer.

170.24 IMPROVEMENTS REQUIRED. All improvements required as a condition for approval of a subdivision plat shall be installed and constructed in accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways may be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base or as the Council may require.

3. Curb and Gutter. Curb and gutter may be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City water department standards, procedure and supervision.

6. Sewers.

A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the City Engineer.

B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health, must be provided for the adequate disposal of sanitary wastes.

C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the City Engineer.

170.25 COMPLETION OF IMPROVEMENTS. The specific location, capacity and timing for the construction and placement of required improvements shall be determined in the preliminary platting process. The subdivider shall install and construct all improvements required by this chapter prior to final approval of the subdivision plat by the Council unless one of the following applies:

1. The Council waives its right to review the plat.
2. A variance from the requirements of this chapter is granted by the Council in granting final approval for the plat.
3. Prior to final action by the Council on the subdivision plat or prior to any reconsideration thereof following disapproval, the subdivider has, with the approval of the Council, secured a performance bond with corporate surety guaranteeing completion of all required improvements within one year, and such bond has been approved by the City Attorney and filed with the Clerk.
4. Prior to final action by the Council on the plat, or prior to any reconsideration thereof by the Council following disapproval, the City and the subdivider have entered into an agreement which, in the opinion of the Council, provides adequate assurance that all required improvements will be constructed within a reasonable time and establishes a funding mechanism for the cost of such improvements. Such an agreement may include provisions for the establishment of an escrow fund whereby some portion of the proceeds from future lot sales may be reserved and used for construction costs, and/or for the use of special assessments, and such other terms as to which the parties may agree. However, such an agreement shall not permit the delay of any required water and sewer utility improvements which may be delayed until after final plat approval only pursuant to subsection 3 of this section relating to performance bonds. This subsection does not create any duty on the part of the City to enter into an agreement of the type authorized herein.

170.26 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements.

170.27 CHANGES AND AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council, provided however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four or more than 20 days before the date of the hearing.

170.28 AUDITOR'S PLATS.

1. An auditor's plat, prepared pursuant to Iowa Code Section 354.13 and filed with the Clerk pursuant to *Code of Iowa* Section 354.15, shall be exempt from the requirements of this chapter except for this section.
2. If the auditor's plat conforms to the requirements of *Code of Iowa* Chapter 355, the Council shall, within 60 days of the date of filing, approve the plat by resolution and certify the resolution to be recorded with the plat.

3. The resolution approving the auditor's plat shall state whether the lots within the auditor's plat meet the standards and conditions established by this chapter for subdivision lots.
4. The approval of an auditor's plat by the Council shall not impose any liability upon the City to accept dedication of any public use areas within the land included in the plat nor shall such approval impose any liability on the City to install or maintain any public improvements or utilities within the platted area; provided, however, the Council may, at its option, in the approving resolution, accept the dedication of any areas designated for public use.
5. Approval of an auditor's plat by the Council shall not constitute a waiver of the requirements of this chapter.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTEZUMA, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF _____ STREET

BE IT ENACTED by the City Council of the City of Montezuma, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Montezuma, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. _____ Street, on the ____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 __, and approved this ____ day of _____, 20 __.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20__.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTEZUMA, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Montezuma, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Montezuma, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 ____, and approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTEZUMA, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Montezuma, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Montezuma, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO MONTEZUMA, IOWA

Be It Enacted by the City Council of the City of Montezuma, Iowa:

SECTION 1. The (location or legal description of street or alley) to Montezuma, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 __, and approved this ____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20__.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ___ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Montezuma, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Montezuma, Iowa, will meet on the ___ day of _____, 20 __, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Montezuma, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Montezuma, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Montezuma, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Montezuma, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Montezuma, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Montezuma, Iowa, will meet on the ___ day of _____, 20 __, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Montezuma, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Montezuma, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of ___, 20___, on
(Name of Property Owner)
through ___, Agent,
(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within ___ (___) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____
(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within ___ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,
(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20__.

Mayor

ATTEST:

City Clerk

CITY OF MONTEZUMA, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____

Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY	
_____	FEE PAID
_____	PLOT DIAGRAM SUBMITTED
_____	PLAN SUBMITTED
_____	APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

BUILD ALTER CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS _____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____

PRESENT USE: _____

PROPOSED USE: _____

A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.

I have read Chapter _____ of the Code of Ordinances of Montezuma, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

(Applicant's Signature)

CITY OF MONTEZUMA, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO. _____ (Date)

APPLICATION NO. _____
(Date of Application)

LOCATION _____

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ____,
“BUILDING AND LAND USE REGULATIONS” OF THE CODE OF ORDINANCES OF
MONTEZUMA, IOWA.

APPROVED BY COUNCIL _____ (Date)

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

