

CHAPTER 1

CODE OF ORDINANCES

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means the ordinances of the City of Rockwell City, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for 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 which amend, repeal or in any manner affect this Code of Ordinances shall include proper reference to chapter, section, subsection or paragraph to maintain an orderly codification of ordinances of the City.

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

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

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

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

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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 Rockwell City, Iowa.[†]

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five 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:** Ordinance No. 233 adopting a charter for the City was passed and approved by the Council on June 23, 1975, and was published on July 1, 1975.

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00
 - B. Each Repeat Offense – Not to exceed \$1,000.00

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

2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an

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

industrial user is punishable by a penalty of not more than \$1,000.00 for each day a violation exists or continues.

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

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

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

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

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

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

3.05 ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such

alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

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

3.06 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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2,500.00) in a fiscal year.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled 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 ten (10) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

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

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

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

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

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

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

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

4. Change Fund. The finance officer is authorized to draw a warrant/check on the Utility Fund for establishing a change fund in the amount of seventy-five dollars (\$75.00) for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the finance officer, who shall maintain the integrity of the fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.
5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.
(Code of Iowa, Sec. 384.16[3])
6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.
(Code of Iowa, Sec. 384.16[2])
7. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.
(Code of Iowa, Sec. 384.16[5])

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

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

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

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.
4. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.
5. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

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

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

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

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

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

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

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

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

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

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty (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 REVITALIZATION

| EDITOR'S NOTE | | |
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| The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect. | | |
| ORDINANCE NO. | ADOPTED | NAME OF AREA |
| 318 | May 18, 1998 | Residential Urban Revitalization Area |
| 332 | October 20, 2003 | Commercial Urban Revitalization Area |
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CHAPTER 10

URBAN RENEWAL

| EDITOR'S NOTE | | |
|--|------------------|--|
| The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Renewal Areas in the City and remain in full force and effect. | | |
| ORDINANCE NO. | ADOPTED | NAME OF AREA |
| 339 | February 7, 2005 | Highway 20 East Urban Renewal District |
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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 fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

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

8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing

the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.

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

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

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

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees
4. Tree Board
5. Parks and Recreation Board

15.04 COMPENSATION. The salary of the Mayor is twenty-one hundred dollars (\$2,100.00) per year, payable monthly.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The regular meetings of the Council are on the first and third Mondays of each month at 5:30 p.m. at City Hall. If such day falls on a legal holiday, the meeting is held the next day at the same time unless a different day or time is determined by the Council.

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

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

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

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

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

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

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

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

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

17.06 COMPENSATION. The salary of each Council member is thirty dollars (\$30.00) for each meeting of the Council attended.

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

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CHAPTER 18

CITY CLERK

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

18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal
18.14 City Funds

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

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

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

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

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

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

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

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

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

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

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

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

18.06 AUTHENTICATION. The Clerk shall authenticate all measures except motions

with the Clerk's signature, certifying the time and manner of publication when required.

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.14 CITY FUNDS. The Clerk shall perform the following duties relating to City funds.

(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 Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.
3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
4. Special Assessments. Keep a separate account of all money received from special assessments.
5. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer to serve for a term of four years.

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

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

1. Reconciliation. Reconcile the Clerk's books and records and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

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

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

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

20.02 ATTORNEY FOR CITY. The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.03 POWER OF ATTORNEY. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
(Code of Iowa, Sec. 372.13[4])

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare those ordinances which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.
(Code of Iowa, Sec. 372.13[4])

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.
(Code of Iowa, Sec. 372.13[4])

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
(Code of Iowa, Sec. 372.13[4])

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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| 21.01 Public Library | 21.08 Receipts/Expenditures |
| 21.02 Library Trustees | 21.09 Gifts/Memorial Funds |
| 21.03 Qualifications of Trustees | 21.10 Annual Report |
| 21.04 Organization of the Board | 21.11 Injury to Books or Property |
| 21.05 Powers and Duties | 21.12 Theft |
| 21.06 Contracting with Other Libraries | 21.13 Notice Posted |
| 21.07 Nonresident Use | |

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

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

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

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

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

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. 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)
10. Record of Proceedings. To keep a record of its proceedings.
11. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

21.08 RECEIPTS/EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library and all money received from Library activities including but not limited to room rent, fines, and County Association Allotments shall be reported as Library Revenues and deposited in the General Fund. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary.

(Code of Iowa, Sec. 384.20 & 392.5)

21.09 GIFTS/MEMORIAL FUNDS. There is established a Library Trust and Agency Memorial Account for the purpose of Library-related capital improvements and for such special gifts and projects to meet the intent of the donors and testators involved which shall be held by the City in total with all other City funds and accounts. Any and all withdrawals or transfers affecting this account shall be done with the concurrence of the Library Trustees, within budgetary limitations.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such

improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after thirty (30) days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 23

PARKS AND RECREATION BOARD

23.01 Parks and Recreation Board Created
23.02 Board Organization
23.03 Duties of the Board

23.04 Reports
23.05 Rules

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

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

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

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

23.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

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CHAPTER 25

CITY TREE BOARD

25.01 Establishment of City Tree Board
25.02 Vacancy
25.03 Compensation
25.04 Duties and Responsibilities

25.05 Operation
25.06 Interference with City Tree Board
25.07 Review by Council

25.01 ESTABLISHMENT OF CITY TREE BOARD. There is hereby established a City Tree Board for the City, which shall consist of five members, citizens and residents of the City, who shall be appointed by the Mayor, with the approval of the Council, for staggered three-year terms.

25.02 VACANCY. In the event that a vacancy occurs on the Board, it shall be filled by appointment by the Mayor with the approval of the Council, and such appointee shall fill out the unexpired term of the member whose office was vacated.

25.03 COMPENSATION. Members of the Board shall serve without compensation except for their actual expenses, which shall be subject to Council approval.

25.04 DUTIES AND RESPONSIBILITIES. It is the responsibility of the Board to study, investigate and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Council and upon their acceptance and approval shall constitute the official comprehensive City Tree Plan for the City. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

25.05 OPERATION. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be quorum for the transaction of business.

25.06 INTERFERENCE WITH CITY TREE BOARD. It is unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds.

25.07 REVIEW BY COUNCIL. The Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the Board to the Council, who may hear the matter and make final decision.

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Peace Officers Appointed

30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Contract Law Enforcement

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.
(Code of Iowa, Sec. 80B.11)

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

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

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

30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Mayor shall also select, subject to the approval of Council, the other members of the department.
(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.
(Code of Iowa, Sec. 372.13 [4])

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.
(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.
(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.
(Code of Iowa, Sec. 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

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

35.08 Obedience to Fire Chief
35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

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)

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

40.06 Sound Amplification Systems

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 which is reasonably related to that sport.

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

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

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

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

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

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

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

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

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

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

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

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

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

- C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
 - D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
 - E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. **Obstruct Use of Street.** Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

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

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 SOUND AMPLIFICATION SYSTEMS. No person in control of any motor vehicle within the City shall operate or permit operation of any sound amplification system in such a manner that it can be heard from outside the vehicle more than 75 feet from said vehicle. This section does not apply: (i) when said system is being operated in such a manner to request assistance or warn of a hazardous situation, or (ii) to authorized emergency vehicles or outside service vehicles with outside vehicle speakers while engaged in the providing of service within the public right-of-way.

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

41.01 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 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, jailer, emergency medical care provider, or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

41.07 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 ten (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 and exploding of fireworks within the City are subject to the following:

(Code of Iowa, Sec. 727.2)

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

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

- A. Personal Injury:\$250,000 per person
- B. Property Damage:\$50,000
- C. Total Exposure:\$1,000,000

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

41.15 DRUG PARAPHERNALIA.

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.

(Code of Iowa, Sec. 124.414)

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

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

(Code of Iowa, Sec. 716.8)

1. 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.

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.11 – Injury to Books or Property
 - B. Section 21.12 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.14 – Fires or Fuel on Sidewalks
 - C. Section 136.15 – Defacing
 - D. Section 136.16 – Debris on Sidewalks
 - E. Section 136.17 – Merchandise Display
 - F. Section 136.18 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

45.01 PERSONS UNDER LEGAL AGE. As used in this section, “legal age” means twenty-one (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 liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

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

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 liquor, wine, or beer. The provisions of this subsection do not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

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

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. “Home” means the minor’s dwelling place. It need not be the minor’s permanent dwelling place.
 - C. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - D. “Minor” means any unemancipated person under the age of eighteen (18) years.
 - E. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - F. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such

parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

G. “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.

H. “Unemancipated” means unmarried and/or still under the custody or control of a responsible adult.

2. Curfew Established. It is unlawful for any minor to be or remain in any public place in the City between the hours of 1:00 a.m. and 5:00 a.m. of any day.

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

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides.

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-half hour after the end or before the beginning of work;

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

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

(4) School activity or, if traveling, within one-half 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-half 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 non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
 - C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.
 - D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.
6. Penalties.
 - A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, 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 simple misdemeanor.
 - 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.

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 simple misdemeanor.

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

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

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

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

CHAPTER 47

SOCIAL HOST

47.01 Social Host
47.02 Definitions
47.03 Affirmative Duties
47.04 Prohibitions

47.05 Exceptions
47.06 Enforcement
47.07 Penalties

47.01 SOCIAL HOST. The City of Rockwell City intends to protect the interest, welfare, health, and safety within Rockwell City by prohibiting the services to and consumption of alcoholic beverages by person under the age of twenty-one (21) at unsupervised parties on private property where alcohol is consumed by minors, are harmful to the minors themselves and to the community where such parties are held. Law Enforcement's ability to abate gatherings where alcohol is consumed by minors on private property will result in a decrease in abuse of alcohol by minors, physical altercations and injuries, neighborhood vandalism, and excessive noise disturbances thereby improving public safety. Problems associated with such gatherings are difficult to resolve unless Law Enforcement has the legal authority to direct the host to disperse the group. Control of large parties, gatherings, or events on private property where minors are consuming alcohol is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public. In addition, Law Enforcement officers frequently have been required to make calls to a location of a party, gathering, or event in order to disperse uncooperative participants, causing a drain of manpower and resources and in some cases, leaving other areas of the City with inadequate protection. Based on these findings, the City Council has deemed it necessary to enact the following regulations in Rockwell City.

47.02 DEFINITIONS. For purposes of this chapter, the following terms have the following meanings:

1. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
2. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half or one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
3. "Emergency responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
4. "Enforcement services" means the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering, or party and administrative costs attributable to the incident; the actual costs for medical treatments for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.

5. “Event, gathering or party” means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.
6. “Juvenile” means a person under the age of eighteen (18).
7. “Legal age” means twenty-one (21) years of age or more.
8. “Parent” means any person having legal custody of a juvenile: (i) as a natural parent, adoptive parent, or step-parent; (ii) as a legal guardian; (iii) as a person to whom legal custody has been given by order of the court; or (iv) a person who has assumed care of juvenile through an arrangement for youth exchange.
9. “Person” means any individual, partnership, corporation, or any association of one or more individuals.
10. “Possession or control” means actual possession or constructive possession based on facts, which permit the inference of intent to possess or control of alcoholic beverages.
11. “Premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, other dwelling unit, hall or meeting room, garage, barn, park, tent, camper/RV, or any other place conducive to assembly, public or private, whether occupied on a permanent or temporary basis, whether occupied as a dwelling or specifically for an event, gathering, or party, and whether owned, leased, rented or used with or without permission or compensation.
12. “Public place” means the same as defined in Iowa Code Section 123.3(27).
13. “Social host” means any person (see Section 45.04) who allows, organizes, supervises, controls or permits an event, gathering, or party. This includes, but is not limited to: (i) the person(s) who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place; (ii) the person(s) in charge of the premises; or (iii) the person(s) responsible for organizing the event, gathering, or party.
14. “Underage person” means any person under the age of twenty-one (21).

This ordinance does not apply to a social host who is a juvenile, however, if the social host is a juvenile and the parent(s) of the juvenile knows or reasonably should know of the event, gathering, or party and knows or reasonably should know that the consumption of alcohol is occurring, the parent(s) shall be liable for violations of the chapter.

47.03 AFFIRMATIVE DUTIES. It is the duty of the social host of an event, gathering, or party to take all reasonable steps to prevent alcoholic beverages from being possessed or consumed by underage persons on the premises. Reasonable steps include, but are not limited to:

1. Controlling underage persons’ access to alcoholic beverages.
2. Controlling the quantity of alcoholic beverages.
3. Verifying the age of persons being served, in the possession of, or consuming alcoholic beverages at the event, gathering, or party by inspecting driver’s licenses or other government-issued identification cards.
4. Supervising the activities of underage persons at the party, and

5. Notifying law enforcement of underage possession or consumption of alcoholic beverages, and allowing law enforcement to enter the premises for the purpose of stopping the possession or consumption by underage persons.

47.04 PROHIBITIONS. It is unlawful for any social host of an event, gathering, or party on the social host's premises to knowingly permit or allow underage person to consume alcoholic beverages, or knowingly permit or allow underage person to possess alcoholic beverages on the premises, whether or not the social host is present on the premises.

A social host has an affirmative defense if the social host took reasonable steps to prevent the possession or consumption of alcohol, or notified law enforcement and allowed law enforcement to enter the premises for the purpose of stopping illegal activities.

47.05 EXCEPTIONS.

1. This chapter shall not apply:
 - A. Conduct solely between an underage person and his or her parents while present in the parent's household.
 - B. Legally protected religious observances, or
 - C. Situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.
2. The exceptions outlined in this section shall not apply under circumstances in which the underage person leaves the home, religious gathering or place of employment and subsequently violates Iowa Code Section 123.46(2), Consumption or Intoxication in Public Places.

47.06 ENFORCEMENT. The provisions of this chapter shall be enforced by the law enforcement agencies of the City. The Rockwell City Police Department Office shall have primary, but not exclusive responsibility for the ordinance codified in this chapter.

47.07 PENALTIES. Violations of this chapter are declared to be municipal infractions, punishable by civil penalty (see Chapter 3 of this Code of Ordinances). The City may also seek reimbursement for enforcement services provided by emergency responders related to the event, gathering, or party.

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CHAPTER 48

PARK REGULATIONS

48.01 Purpose
48.02 Use of Drives Required
48.03 Fires
48.04 Littering

48.05 Parking
48.06 Camping
48.07 Nuisance

48.01 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)

48.02 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.

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

48.04 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.

48.05 PARKING. No person shall park any motor vehicle in any park except in designated parking areas.

48.06 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.

48.07 NUISANCE. No person shall use any loud, violent, obscene or profane language while in the park, or behave in a disorderly or obscene manner or commit any nuisance upon the grounds. In addition, all persons shall follow posted rules.

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

12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

† **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.

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

manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Other Exceptions

51.06 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, rope, rags, batteries, paper, trash, debris, waste or junked, dismantled or wrecked automobiles, or parts of automobiles, or iron, steel or other old or scrap ferrous or nonferrous material.
2. “Junk vehicle” means any vehicle licensed, unlicensed or legally placed in storage with the County Treasurer, stored within the corporate limits of the City and which has any of the following characteristics:
 - A. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - B. Flammable Fuel. Any unlicensed vehicle which contains gasoline or any other flammable fuel.
 - C. Inoperable. Any motor vehicle, if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle unfit for legal use, or which cannot be immediately started and moved under its own power, as demonstrated by the owner to the police officer.
 - D. Unsafe and/or Unattended. Any vehicle left unattended up on blocks, jacks or elevated in any other way which constitutes a threat to the public health or safety. Any vehicle that has any broken glass or broken or loose parts, which individually or collectively make the vehicle unsafe or unfit for legal use or which otherwise constitutes a threat to public health or safety.
 - E. Storage. Any vehicle used as storage for items such as rags, old rope, batteries, paper, trash bags, machinery, mechanical parts, scrap housing goods, dead plant material or any similar material.
 - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
3. “Property” means either private or public real property within the City.
4. “Structure” means fully enclosed building that does not allow the contents to be viewed from the outside (excluding windows). A structure does not include a carport, car cover or tarp.
5. “Unlicensed” means any vehicle which is not displaying a valid current registration plate as required by the laws of the State.
6. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without

limitation a motor vehicle, automobile, truck, motorcycle, motor home, camper, tractor, buggy, wagon, farm machinery, or any combination thereof.

51.02 JUNK AND JUNK VEHICLES PROHIBITED. It is unlawful for any person to store, accumulate, or allow to remain on any property in the person's control, any junk or junk vehicle.

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle upon private property owned or controlled by the owner of the junk or junk vehicle, 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 or person in control of the property upon which it is stored shall be prima facie liable for said violation.

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

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City; or
3. Lawful Business. Any lawful business within a properly zoned area, wherein the junk or junk vehicles are necessary to carry out the primary function of the business. This does not include junk or junk vehicles that have not been used for excessive periods of time.

51.05 OTHER EXCEPTIONS.

1. Race Cars. Vehicles used for racing, if they are under a fitted car cover and parked on a concrete, asphalt or rock/gravel parking area. Parking on grass or other areas of the property would be acceptable if the area is enclosed by a privacy fence of at least six feet in height.
2. Vehicles Being Restored and Parts Cars. Vehicles being restored and parts cars are acceptable if they are under a fitted car cover and parked on a concrete, asphalt or rock/gravel parking area. Parking on grass or other areas of the property is acceptable if the area is enclosed by a privacy fence of at least six feet in height. Vehicles being restored must be completed within one year to qualify for this exception unless an extension is granted by the Police Chief following a showing of proof that significant progress has been made toward the restoration. Parts cars will only qualify for this exception during the actual restoration of the primary vehicle or during any granted extensions.
3. The Police Chief may grant other exceptions in his or her discretion as long as these exceptions meet the primary intent of this chapter. Any such exceptions will be in writing and for a specific period of time.

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

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

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CHAPTER 52

WEEDS AND GRASS

52.01 Purpose

52.02 Definitions

52.03 Cutting Specifications and Standards of Practice

52.04 Uniform Height Specifications

52.05 Noxious Weeds

52.06 Notice to Abate

52.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. "Curb," "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. "Cut" or "mow" means to mechanically maintain the growth of grass, weeds or brush at a uniform height.
3. "Owner" means a person owning private property in the City and any person occupying private property in the City.
4. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

52.03 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 52.04.
2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner's property.

52.04 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas — not to exceed six inches (6").
2. Undeveloped Residential Areas — not to exceed six inches (6").
3. Business and Industrial Areas — not to exceed six inches (6").
4. Agriculture Areas — not to exceed fifteen inches (15").

Grass, weeds and brush which are allowed to grow in excess of the above specified limitations are deemed to be violations of this chapter.

52.05 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.
2. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the *Code of Iowa*.

52.06 NOTICE TO ABATE. Upon discovery of any violations of this chapter, the City may within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances. Any landowner who violates 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.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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|------------------------------------|------------------------------|
| 55.01 Definitions | 55.10 Vicious Dogs |
| 55.02 Animal Neglect | 55.11 Rabies Vaccination |
| 55.03 Livestock Neglect | 55.12 Owner's Duty |
| 55.04 Abandonment of Cats and Dogs | 55.13 Confinement |
| 55.05 Livestock | 55.14 At Large: Impoundment |
| 55.06 At Large Prohibited | 55.15 Disposition of Animals |
| 55.07 Damage or Interference | 55.16 Impounding Costs |
| 55.08 Annoyance or Disturbance | 55.17 Pet Awards Prohibited |
| 55.09 Sanitation | |

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(*Code of Iowa, Sec. 717B.1*)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
(*Code of Iowa, Sec. 717.1*)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

55.09 SANITATION. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

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

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.16 IMPOUNDING COSTS. Impounding costs are twenty-five dollars (\$25.00) per day.

(Code of Iowa, Sec. 351.37)

55.17 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.

- C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
- A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Keeping of Vicious Animals Prohibited

56.04 Seizure, Impoundment and Disposition

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

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

- A. Badgers, wolverines, weasels, skunk and mink;
- B. Raccoons;
- C. Bats;
- D. Scorpions;
- E. Pit bull terriers, including the following:
 - (1) The Bull Terrier breed of dog;
 - (2) The Staffordshire Bull Terrier breed;
 - (3) The American Pit Bull Terrier breed;
 - (4) The American Staffordshire Terrier breed;
 - (5) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or
 - (6) Any dog which has the appearance and characteristics of being predominantly of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

2. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has attacked, bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten more than one person during the animal’s lifetime; or (b) has bitten one person on two or more

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

occasions during the animal's lifetime; or (c) has attacked any domestic animal or fowl without provocation, causing injury or death while off the property of the owner.

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the City except in the following circumstances:

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the *Code of Iowa*.

56.03 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Mayor or peace officer that a guard dog is on duty at said premises.

56.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be

served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Mayor or peace officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Rockwell City 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 the following designated streets:
 - A. Main Street from Third Street to Sixth Street.
 - B. Court Street from the railroad tracks to Sixth Street.
 - C. Fourth Street from High Street to Richmond Street.
 - D. Fifth Street from Lake Street to Richmond Street.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with

other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. “Parade” Defined. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or

manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

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

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

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

61.03 TRAFFIC LANES. The Police Chief is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of the City. Where such traffic lanes have been marked, it 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 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.

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

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

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

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

62.02 PLAY STREETS DESIGNATED. The Council 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. It is unlawful for the driver of any vehicle to use or operate 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 the case of an emergency.

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Tonawanda Street, from Ninth Street to the west corporate line.
 - B. High Street, from Elm Street to 610 feet east of Brower Street.
 - C. High Street, from 800 feet east of Sixth Street to 250 feet west of Ninth Street.
 - D. Eighth Street, from 500 feet south of Park Lane to 75 feet north of Park Lane.

2. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. First Street, from 200 feet south of Washington Street to the south corporate line.
 - B. First Street, from 725 feet north of Austin Street to the north corporate line.
 - C. High Street, from 610 feet east of Brower Street to the east corporate line.
 - D. High Street, from 250 feet west of Ninth Street to the west corporate line.
3. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Eighth Street, from 300 feet south of the south railroad track to Tonawanda 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

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

(Code of Iowa, Sec. 321.311)

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

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited at intersections where there are automatic traffic signals.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Required

65.02 Three-Way Stop Intersections

65.03 Four-Way Stop Intersections

65.04 Yield Required

65.05 Stop Before Crossing Sidewalk

65.06 Stop When Traffic Is Obstructed

65.07 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. First Street. Vehicles traveling on First Street shall stop at High Street.
2. Third Street. Vehicles traveling on Third Street shall stop at High Street.
3. Third Street. Vehicles traveling north on Third Street shall stop at Tonawanda Avenue.
4. Fourth Street. Vehicles traveling on Fourth Street shall stop at High Street.
5. Fourth Street. Vehicles traveling on Fourth Street shall stop at Tonawanda Avenue.
6. Fourth Street. Vehicles traveling north on Fourth Street shall stop at Court Street.
7. Fourth Street. Vehicles traveling south on Fourth Street shall stop at Main Street.
8. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Tonawanda Avenue.
9. Fifth Street. Vehicles traveling north on Fifth Street shall stop at Court Street.
10. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Main Street.
11. Sixth Street. Vehicles traveling north on Sixth Street shall stop at High Street.
12. Sixth Street. Vehicles traveling on Sixth Street shall stop at Court Street.
13. Sixth Street. Vehicles traveling on Sixth Street shall stop at Main Street.
14. Sixth Street. Vehicles traveling on Sixth Street shall stop at Tonawanda Avenue.
15. Seventh Street. Vehicles traveling on Seventh Street shall stop at Court Street.
16. Seventh Street. Vehicles traveling on Seventh Street shall stop at Main Street.

17. Seventh Street. Vehicles traveling north on Seventh Street shall stop at High Street.
18. Seventh Street. Vehicles traveling south on Seventh Street shall stop at Tonawanda Avenue.
19. Eighth Street. Vehicles traveling on Eighth Street shall stop at Main Street.
20. Eighth Street. Vehicles traveling on Eighth Street shall stop at High Street.
21. Eighth Street. Vehicles traveling on Eighth Street shall stop at Tonawanda Avenue.
22. Ninth Street. Vehicles traveling on Ninth Street shall stop at Richmond Street.
23. Ninth Street. Vehicles traveling north on Ninth Street shall stop at Court Street.
24. Ninth Street. Vehicles traveling north on Ninth Street shall stop at High Street.
25. Elm Street. Vehicles traveling on Elm Street shall stop at High Street.
26. Elm Street. Vehicles traveling north on Elm Street shall stop at Lake Street.
27. Elm Street. Vehicles traveling north on Elm Street shall stop at Main Street.
28. Grant Street. Vehicles traveling south on Grant Street shall stop at High Street.
29. Brower Street. Vehicles traveling north on Brower Street shall stop at High Street.
30. Warner Street. Vehicles traveling north on Warner Street shall stop at High Street.
31. Austin Street. Vehicles traveling on Austin Street shall stop at First Street.
32. Butler Street. Vehicles traveling east on Butler Street shall stop at First Street.
33. Stewart Street. Vehicles traveling east on Stewart Street shall stop at First Street.
34. Lewis Street. Vehicles traveling west on Lewis Street shall stop at First Street.
35. Pleasant Street. Vehicles traveling on Pleasant Street shall stop at First Street.
36. Pleasant Street. Vehicles traveling west on Pleasant Street shall stop at Fourth Street.
37. Pleasant Street. Vehicles traveling on Pleasant Street shall stop at Eighth Street.
38. Lake Street. Vehicles traveling on Lake Street shall stop at First Street.
39. Lake Street. Vehicles traveling on Lake Street shall stop at Fourth Street.
40. Lake Street. Vehicles traveling on Lake Street shall stop at Sixth Street.

41. Main Street. Vehicles traveling on Main Street shall stop at First Street.
42. Main Street. Vehicles traveling west on Main Street shall stop at Fourth Street.
43. Main Street. Vehicles traveling east on Main Street shall stop at Fifth Street.
44. Court Street. Vehicles traveling on Court Street shall stop at Fourth Street.
45. Richmond Street. Vehicles traveling on Richmond Street shall stop at Eighth Street.
46. Richmond Street. Vehicles traveling on Richmond Street shall stop at Fourth Street.
47. South Street. Vehicles traveling on South Street shall stop at Fourth Street.
48. South Street. Vehicles traveling east on South Street shall stop at First Street.
49. Tonawanda Avenue. Vehicles traveling east on Tonawanda Avenue shall stop at First Street.
50. Tonawanda Avenue. Vehicles traveling west on Tonawanda Avenue shall stop at Highway 4.
51. Washington Street. Vehicles traveling east on Washington Street shall stop at First Street.
52. Park Lane. Vehicles traveling north on Park Lane shall stop at Eighth Street.

65.02 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:

1. Third Street and Austin Street. Vehicles approaching the intersection of Austin Street and Third Street from the south, east and west shall stop before entering such intersection.
2. Park Road and Austin Street. Vehicles approaching the intersection of Park Road and Austin Street from the south, east and west shall stop before entering such intersection.

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Court Street and First Street.
2. Intersection of Lake Street and Brower Street.
3. Intersection of Main Street and Brower Street.

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

(Code of Iowa, Sec. 321.345)

1. Lake Street. Vehicles traveling on Lake Street shall yield at Seventh Street.

65.05 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to

driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.06 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.

65.07 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.05 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

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

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every motor vehicle weighing three (3) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

- A. Highway No. 4 from south corporate line to High Street.
- B. High Street from west corporate line to east corporate line.

- C. Eighth Street from north corporate line to High Street and from south corporate line to Tonawanda Street.
 - D. Tonawanda Street from west corporate line to First Street.
 - E. First Street from north corporate line to south corporate line.
 - F. Third Street from Jones Street to Tonawanda Street.
 - G. Court Street from First Street to the elevator entrance.
2. Deliveries Off Truck Route. Any motor vehicle weighing three (3) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.
(Code of Iowa, Sec. 321.473)
3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
(Code of Iowa, Sec. 321.473)

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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.

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. Fourth Street is northbound from Court Street to Main Street.
2. Main Street is westbound from Fourth Street to Fifth Street.
3. Fifth Street is southbound from Main Street to Court Street.
4. Court Street is eastbound from Fifth Street to Fourth Street.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Parking on One-way Streets
69.03 Angle Parking
69.04 Manner of Angle Parking
69.05 Parking for Certain Purposes Illegal

69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 All Night Parking Prohibited
69.10 Snow Emergency

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

(Code of Iowa, Sec. 321.361)

69.02 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 eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Fourth Street, from Richmond Street to Main Street.
2. Main Street, from Fourth Street to Fifth Street.
3. Fifth Street, on the west side, from Main Street to Court Street.
4. Court Street, from Third Street right-of-way to Sixth Street.
5. Main Street, on the north side, from Fifth Street to Sixth Street.
6. Main Street, on the south side, from Fifth Street west to alley.
7. Fourth Street, on both sides, from Main Street north to alley.
8. Sixth Street, on the west side, from Main Street north to alley.
9. Eighth Street, on the east side, from Main Street north to alley.
10. Brower Street, on the west side, from Lake Street to Main Street.
11. Brower Street, on the east side, from Main Street to Court Street.
12. Lake Street, on the south side, from Brower Street, 320 feet west.
13. Main Street, on the north side, from Brower Street, 320 feet west.
14. Main Street, on the north side, from Eighth Street, 180 feet east.

15. Main Street, on the south side, from Fourth Street east to the alley.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than seventy-two (72) hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358 [6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358 [8])
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358 [9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358 [10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358 [11])
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358 [13])
14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)
15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.
(Code of Iowa, Sec. 321.236[1])
16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.
(Code of Iowa, Sec. 321.358[15])
17. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

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

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

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

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

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

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

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

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

- 1. Ninth Street on the west side from High Street to Tonawanda Street.
- 2. Eighth Street on the west side from High Street to Tonawanda Street.
- 3. Seventh Street on the west side from High Street to Tonawanda Street.
- 4. Sixth Street on the west side from High Street to Tonawanda Street.
- 5. Fifth Street on the west side from Pleasant Street to Main Street and from 210 feet south of Court Street to Tonawanda Street.

6. Fourth Street on the west side from South Street to Tonawanda Street and on both sides from Lake Street to High Street.
7. Third Street on the west side from Austin Street to Main Street.
8. First Street on both sides from north corporate line to south corporate line.
9. Elm Street on the west side from Austin Street to Court Street.
10. Grant Street on the west side from Austin Street to High Street.
11. Brower Street on the west side from High Street to Lake Street.
12. Brower Street on the west side from Main Street to Court Street.
13. Warner Street on the west side from High Street to Lake Street.
14. High Street on both sides from the east corporate line to west corporate line.
15. South Street on the south side from Fourth Street to Ninth Street.
16. Richmond Street on the south side from Third Street to Ninth Street.
17. Court Street on the south side from Fifth Street to Ninth Street and First Street to Brower Street.
18. Main Street on the south side from Brower Street to Third Street.
19. Stewart Street on the south side from First Street to Third Street.
20. Main Street on the south side from Sixth Street to Ninth Street.
21. Lake Street on the south side from Warner Street to Brower Street.
22. Lake Street on the south side from 100 feet east of Elm Street to Ninth Street.
23. Pleasant Street on the south side from Brower Street to Fourth Street.
24. Pleasant Street on the south side from Fifth Street to Ninth Street.
25. Lewis Street on the south side from Grant Street to First Street.
26. Butler Street on the south side from First Street to Third Street.
27. Austin Street on the south side from Grant Street to Park Lane.
28. Golden Buckle Drive outer perimeter of the horseshoe drive.

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

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

1. Main Street from Fourth Street to Fifth Street on both sides.
2. Fourth Street from Lake Street to Richmond Street on both sides.
3. Fifth Street from Main Street to Court Street on both sides.
4. Court Street from Sixth Street to Third Street on both sides.

69.10 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow emergency proclaimed by the Police Department unless the snow has been removed or plowed from the street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the 48-hour period after cessation of such storm except as provided in this section upon streets which have been fully opened. Such a ban shall have uniform application and the Police Chief 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 Police Department shall proclaim a snow emergency and inform the news media to publicize the proclamation and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

(Code of Iowa, 321.236[1])

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

70.01 ARREST OR CITATION. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of ten dollars (\$10.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00).

(Code of Iowa, Sec. 321.236[1b] & 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

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

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

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

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

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that 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 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, numbering, equipment and manner of operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321G.9[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.

7. School Property. No snowmobiles shall be allowed on school property without the express permission of the Rockwell City-Lytton schools.

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[3])

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[h])

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. School Property. No ATVs shall be allowed on school property without the express permission of the Rockwell City-Lytton schools..

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

owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV or snowmobile at the time the injury or damage occurred.

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

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

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

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Speed

76.06 Emerging from Alley or Driveway

76.07 Carrying Articles

76.08 Riding on Sidewalks

76.09 Towing

76.10 Improper Riding

76.11 Parking

76.12 Equipment Requirements

76.13 Special Penalty

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

76.05 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 which prevents the rider from keeping at least one hand upon the handle bars.

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

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

1. **Signed 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])

2. **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 which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

76.13 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 the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1] & Sec. 321.90)

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa State Patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned

vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and

personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay three dollars (\$3.00) if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions

81.02 Obstructing Streets

81.03 Crossing Maintenance

81.04 Loading Grain Cars

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

1. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.
7. Loading Grain Cars. When loading grain cars in accordance with Section 81.05 of this chapter.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.03 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

81.04 LOADING GRAIN CARS.

1. Definitions. As used in this section, the following terms are defined:

- A. "Blocked" or "blocked street" means a street that is in any way impeded by railroad cars by FC or anyone acting on FC's behalf for a period longer than ten (10) minutes from the time that a street is in any way impeded.
- B. "Designated street" or "streets" means and is limited to Eighth Street, Fourth Street, Tonawanda Avenue, South Street and Court Street.
- C. "FC" or "Farmers' Co-op" means Farmers' Co-operative, an Iowa cooperative having its principal place of business at Farnhamville, Iowa.
- D. "Liability" means any cause of action of any sort or nature relating to a blocked street or incidental to a blocked street including, but not limited to, claims of negligence against the City, provided, however, that nothing in this section shall be construed as creating any right of action against the City or FC that would otherwise be barred by the Governmental Subdivision Tort Claims Act, Iowa Code Chapter 670.
- E. "Notice" by the City means a writing mailed to FC by certified mail and shall be deemed given upon mailing. Notice by the City also means any writing served on FC by the City. Proof of notice shall be retained by the City in its records for three years from the date of the notice. If notice is served on FC in a manner other than by mailing, proof of notice shall be in the form of an affidavit signed by the person giving the notice in a manner other than mailing. "Notice" by FC means written or verbal notice that a street or streets will be or has been blocked by a railroad car or cars and given to the City and Calhoun County Sheriff at the earliest practicable time, but shall be in advance of the time that any street is blocked, unless FC is reasonably unable to give notice in advance. In that case, notice shall be given as soon as it is reasonably possible to give notice.
- F. "Railroad car" or "cars" means railroad engines or grain cars.
- G. "Signage" means signs and other warning devices determined by the City Street Superintendent to be appropriate to provide adequate notice to motor vehicle operators and pedestrians of a blocked street. Signage also includes any sign or warning device required by State or federal statute or regulation.
- H. "Street" means a street as defined in Chapter 1 of this Code of Ordinances but does not include any State or federal highway.
2. Street Blocked by Railroad Cars. FC may, from time to time, cause a designated street to be blocked by a railroad car or cars for the purpose of loading grain cars subject to the other provisions of this section. No designated street or streets shall be blocked by railroad cars for more than twenty-four (24) hours beginning from the time that any designated street is first blocked. FC shall give notice of the name of the designated street or streets that will be blocked, the starting time and ending time the designated street or streets will be blocked or that FC believes that any designated street will be blocked. Main Street will be utilized as a locomotive crossing only, but may be blocked for periods slightly greater than the ten minutes allowed by State law. FC will make all efforts to minimize the length of time any street is blocked.

3. Signage. FC shall install, maintain, replace and remove any signage at FC's sole expense.
4. Liability Insurance. FC shall obtain, at FC's sole expense, liability insurance insuring the City from any liability, with such company or companies and in such amounts as the City determines to be appropriate. FC shall indemnify and hold the City harmless as to any liability.
5. Penalties. In the event that FC violates this section, FC shall be liable to the City for any expense incurred by the City as a result of the violation, including all professional fees, such as attorneys' fees.
6. Costs. FC shall pay all costs incurred by the City associated with the ordinance codified in this section including, but not limited to, costs of publication and professional fees.
7. Separate Agreement. FC and the City shall enter into a separate agreement consistent with the terms of this section. This section will become effective upon the signing of such agreement by FC's authorized employees or agents and upon signing by the Mayor and the City Clerk, who are hereby authorized to enter into such an agreement.
8. Repealer. The City may not repeal the ordinance codified in this section before twenty (20) years from the date of adoption unless FC consents, in writing, to repeal. However, the City may repeal the ordinance if FC is determined to be in material breach of the agreement to be entered into as required by this section. The conditions set forth in this section may apply to FC's successor in such case FC is merged with another entity, or all of FC's assets are sold, transferred, exchanged, conveyed or liquidated; however, the conditions of this section shall be effective only upon the signing of a separate agreement by the successor's authorized employees or agents and upon approval by the City Council. The purpose of the street blocking shall remain the same as set forth in this section.

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CHAPTER 90

WATER SERVICE SYSTEM

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| 90.01 Definitions | 90.12 Responsibility for Water Service Pipe |
| 90.02 Superintendent's Duties | 90.13 Failure to Maintain |
| 90.03 Mandatory Connections | 90.14 Curb Valve |
| 90.04 Abandoned Connections | 90.15 Interior Valve |
| 90.05 Permit | 90.16 Inspection and Approval |
| 90.06 Fee for Permit | 90.17 Completion by the City |
| 90.07 Compliance with Plumbing Code | 90.18 Shutting Off Water Supply |
| 90.08 Plumber Required | 90.19 Operation of Curb Valve and Hydrants |
| 90.09 Excavations | 90.20 Regulation of Wells Within City Limits |
| 90.10 Tapping Mains | 90.21 Backflow Prevention |
| 90.11 Installation of Water Service Pipe | |

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

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

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

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

90.03 MANDATORY CONNECTIONS. The owners of any houses, buildings or structures used for human occupancy, employment or use situated within the City and abutting on any street, alley or right-of-way in which there is located a public water main are hereby required to connect such facilities to the City's public water system in accordance with

the provisions of these Water Service chapters within thirty (30) days after the date of official notice to do so, provided that said public water main is located within two hundred (200) feet of the property line of such owner.

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

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within thirty (30) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay twenty-five dollars (\$25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

(Code of Iowa, Sec. 384.84)

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

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

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

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen

(18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

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

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

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

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

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

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

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

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

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to

finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 REGULATION OF WELLS WITHIN CITY LIMITS. No wells may be constructed or drilled within the City limits without a permit. Permit applications shall be obtained from and presented to the Superintendent, who shall present all applications to the Council for consideration and grant or denial. The Superintendent shall make recommendations to the Council regarding the grant or denial of any application, but the final decision shall rest with the Council. In considering the grant or denial of any application for construction or drilling of a well within City limits, the Council shall consider whether the property is furnished with pure and wholesome water, whether it is safe to construct or drill a well on the premises, and any other considerations which the Council deems appropriate.

90.21 BACKFLOW PREVENTION. The Superintendent shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection. If, in the judgment of the Superintendent, an approved backflow device is required (at the customer's water service connection, or within the customer's private water system) for the safety of the water system, the Superintendent shall give notice in writing to said customer to install such an approved backflow prevention assembly at a specific location on said customer's premises. The customer shall immediately install such approved assembly at the customer's own expense, and failure, refusal or inability on the part of the customer to install, have tested and maintain said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

CHAPTER 91

WATER METERS

| | |
|--|------------------------------|
| 91.01 Purpose | 91.06 Meter Repairs |
| 91.02 Water Use Metered | 91.07 Right of Entry |
| 91.03 Fire Sprinkler Systems – Exception | 91.08 Meter Accuracy/Testing |
| 91.04 Location of Meters | 91.09 Garden Meters |
| 91.05 Meter Setting | |

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished, installed, owned and maintained by the City.

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

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible for meter reading and repair and protected from freezing.

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

91.06 METER REPAIRS. Whenever a water meter is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

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

91.08 METER ACCURACY/TESTING. If the City feels that a meter is not registering accurately, the Superintendent may change out the meter at no expense to the customer. If the customer requests that a meter be tested for accuracy, the Superintendent will replace the meter and have it independently tested. If the test results show that the meter is within acceptable parameters ($\leq 5\%$), the customer shall be responsible for the cost of the test. If the meter tests outside the acceptable parameter, the City shall be responsible for the cost of the test.

91.09 GARDEN METERS. Customers may have water used for gardening purposes metered through a separate meter installed and maintained by the City. The customer must

have all piping and fittings for proper setting of the garden meter in place prior to installation by the City. The customer shall pay a \$25.00 fee for each garden meter installed. Water usage measured through a garden meter shall be exempt from sewer service charges.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued
92.06 Lien for Nonpayment
92.07 Lien Exemption

92.08 Lien Notice
92.09 Customer Deposits
92.10 Temporary Vacancy
92.11 Returned Check Charge
92.12 Free Service
92.13 Rental Property Accounts

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

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Effective July 1, 2014:

| Gallons Used Per Month | Rate |
|------------------------|--------------------------|
| First 1,000 | \$12.25 (minimum bill) |
| All over 1,000 gallons | \$6.50 per 1,000 gallons |

2. Effective July 1, 2015:

| Gallons Used Per Month | Rate |
|------------------------|--------------------------|
| First 1,000 | \$12.50 (minimum bill) |
| All over 1,000 gallons | \$6.75 per 1,000 gallons |

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

(Code of Iowa, Sec. 364.4 & 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the tenth day of each month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor and Utility Committee shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Mayor and Utility Committee's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of thirty dollars (\$30.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.
5. Curb Valve. If the City finds, while in the disconnection process, that the curb valve is not operational, the customer/property owner shall be notified of their responsibility to maintain the service line, including the curb valve, and given a reasonable period of time to correct the deficiency (seven days, unless ground is frozen, then fourteen days). If the customer/property owner fails to make the repairs in the time allotted in the notice, the City shall make the repairs in accordance with Section 90.13 of this Code of Ordinances.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. **Water Service Exemption.** The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

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

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

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the

notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer who is not the owner of the premises served a one hundred twenty-five dollar (\$125.00) deposit intended to guarantee the payment of bills for service. A customer who pays his or her account in full and by the due date for the first twelve (12) consecutive billing cycles may request to have the deposit partially refunded so that seventy-five dollars (\$75.00) is held by the City. In the alternative, a seventy-five dollar (\$75.00) deposit will be required from those customers who present, prior to service connection, a Letter of Credit (verifiable within five days) from said customer's current municipal utility provider, demonstrating a good and current payment history of at least six months.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a twenty dollar (\$20.00) fee collected for shutting the water off at the curb valve and a twenty dollar (\$20.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

92.11 RETURNED CHECK CHARGE. A thirty dollar (\$30.00) service charge will be charged on all checks returned by financial institutions.

92.12 FREE SERVICE. Free water shall be supplied only for the City fountains, street cleaning, fires and cleaning City sewers and to the Rockwell City Fair Association, and for park and swimming pool purposes, etc. The furnishing of free water to any institution or for any purpose, however, is not a vested right or privilege, but is to be considered a limited right or privilege, and water shall not be wasted or used extravagantly for any purpose. The Council may at any time by simple vote or resolution restrict, limit or entirely prohibit the free use of water to any institution or for any purpose, when the Council is satisfied that water is being wasted or used without regard to the public welfare. The furnishing of free water is always under the control of the Council, and may be discontinued whenever, in the judgment of the Council, the public interest requires such limitation or prohibition, on account of scarcity of water or any emergency requiring the conservation of City water.

92.13 RENTAL PROPERTY ACCOUNTS. When a rental account closes and the final billing is prepared, City Hall must be notified in writing as to whether to leave the City utilities on in the owner's name or to disconnect service. The property owner must notify the City in writing after each change of account or the owner may sign an annual notice in advance for the current calendar year. If the property owner fails to provide such notice, the utilities will be shut off following each rental account closing.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet 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 which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within thirty (30) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet (61 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the

Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

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

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The person who makes the application shall pay a fee in the amount of twenty-five dollars (\$25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

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

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

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

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

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings.

Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a 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 under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges – Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b)

containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies 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 which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES – POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited

98.02 When Required

98.03 Compliance with Regulations

98.04 Permit Required

98.05 Discharge Restrictions

98.06 Maintenance of System

98.07 Systems Abandoned

98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Rate

99.03 Special Rates

99.04 Private Water Systems

99.05 Payment of Bills

99.06 Lien for Nonpayment

99.07 Annual Notification

99.08 Special Agreements Permitted

99.09 Inconsistent Agreements

99.10 Related Revenue

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. Normal Service Charge.
 - A. Effective July 1, 2014.
 - (1) First 1,000 gallons or lesser amount per month @ \$10.25 (minimum bill).
 - (2) All over 1,000 gallons per month @ \$8.00 per 1,000 gallons.
 - B. Effective July 1, 2015.
 - (1) First 1,000 gallons or lesser amount per month @ \$10.50 (minimum bill).
 - (2) All over 1,000 gallons per month @ \$8.25 per 1,000 gallons.

All water used for gardening purposes that is measured through a garden meter installed in accordance with Section 91.09 of this Code of Ordinances shall be exempt from the sewer service charges contained herein.

2. Extra Strength Surcharge. For those customers who contribute wastewater that has a BOD concentration of more than three hundred (300) parts per million, by weight, and/or a total suspended solids concentration of more than three hundred fifty (350) parts per million, by weight, an extra surcharge shall be collected in addition to the normal service charge. The extra strength surcharge for operation, maintenance, replacement and debt retirement is:

- A. \$0.42 per pound of BOD
- B. \$0.35 per pound of TSS

3. Toxic Pollutant Charge. Any customer who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the sewage treatment plant or any customer who discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the sewage treatment plant shall pay for

such additional cost. The charge to each customer shall cover the increased operational and maintenance costs incurred as the result of the discharges of toxic or restricted pollutants and shall be as determined by the Council.

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 ANNUAL NOTIFICATION. The City shall notify each customer at least annually of the sewer service charges and the notification shall include that portion of the charges that are attributed to wastewater treatment services.

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.

99.09 INCONSISTENT AGREEMENTS. The provisions of this chapter shall take precedence over the terms and conditions of any separate agreements or contracts between the City and customers which are inconsistent with the requirements of the Clean Water Act Section 204(b)(1)A and corresponding regulations. The provisions of this section shall not prohibit the treatment agreements and special rates set forth in Section 99.08 which agreements shall set forth the extra strength surcharge rates provided those rates are consistent with the rates established in 99.02.

99.10 RELATED REVENUE. In determining the annual operation and maintenance costs for the municipal sanitary sewer system, all project-related revenues will be used to reduce the total operation and maintenance costs used for determining sewer service charges. All changes in sewer service charges from the project related revenues shall be proportionally reduced.

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CHAPTER 105

SOLID WASTE CONTROL

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| 105.01 Purpose | 105.07 Littering Prohibited |
| 105.02 Definitions | 105.08 Open Dumping Prohibited |
| 105.03 Sanitary Disposal Required | 105.09 Toxic and Hazardous Waste |
| 105.04 Health and Fire Hazard | 105.10 Waste Storage Containers |
| 105.05 Open Burning Restricted | 105.11 Prohibited Practices |
| 105.06 Separation of Yard Waste Required | |

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit or drop.
(Code of Iowa, Sec. 455B.361[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding ten pounds in weight or fifteen 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 up to and including four separate dwelling units.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
- E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises, only from sunrise to sunset during the periods from April 1 to May 15 and October 1 to November 15 each year. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) 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. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. 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])

8. 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])

9. 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])

10. 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 deposited at the City disposal site. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

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

106.01 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 leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 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 therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fees.
 - A. Collection and Disposal Fee. A fee for solid waste collection and disposal service, used or available, of \$13.00 per month for each residential premises and for each dwelling unit of a multiple-family dwelling for the collection of two 33-gallon containers per week. Any additional containers may be collected at the discretion of the collector and any additional fees therefor shall be collected by the collector.
 - B. Landfill Fee. A landfill fee of \$1.25 per month for each residential premises, each dwelling unit of a multiple-family dwelling and each commercial, industrial and institutional premises.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.02 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.
3. Fee Exemption. A property owner shall be exempt from the monthly solid waste collection and disposal fee during the period when the property owner has water service temporarily discontinued in accordance with Section 92.10 of this Code of Ordinances.

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)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted

110.02 Excavations

110.03 Successors and Assigns

110.04 Eminent Domain

110.05 Construction of Public Improvements

110.06 Damage to System

110.07 Indemnification

110.01 FRANCHISE GRANTED. A nonexclusive franchise is hereby granted unto Midwest Gas, a division of Iowa Public Service Company, a corporation, its successors and assigns (herein “Grantee”) for a term of twenty-five (25) years commencing with the date the ordinance codified by this chapter became effective,[†] to construct, reconstruct, maintain and operate a gas distribution system and plant in the City and to enter upon the streets, avenues, alleys and public places and therein, thereto and thereunder to construct, reconstruct, maintain and operate a gas distribution system consisting of mains, services, regulators and other necessary construction and to furnish gas to the City and its inhabitants for lighting, heating, industrial and other purposes and to own, maintain and operate a high pressure gas main extending to and through the City from points outside thereof.

110.02 EXCAVATIONS. If the Grantee, in the installation, erection and maintenance or operation of its gas utilities, shall cut into or take up any pavement or sidewalk or make any excavation in any street, alley or public grounds within the corporate limits of the City, the same shall be done as near as may be in a manner resulting in minimum interference with the public use of such street, alley or public grounds. Upon completion of such work, Grantee shall replace any pavement or sidewalk removed and shall restore the premises to as good condition as at commencement of the work. Said gas distribution system shall at all times be maintained in good repair so as to furnish efficient gas service.

110.03 SUCCESSORS AND ASSIGNS. This chapter shall apply to Grantee and its successors and assigns. Grantee shall be subject to all legal right, power and authority now or hereafter possessed by the City to control and direct by ordinance or resolution the franchise herein granted and the manner in which the Grantee shall use and enjoy it.

110.04 EMINENT DOMAIN. Grantee shall have the power to appropriate and condemn private property for the purpose of providing gas service to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting or distributing gas service. The question of necessity for the taking of any private property by the Grantee by use of the right of eminent domain and condemnation shall be determined by the Council by resolution.

110.05 CONSTRUCTION OF PUBLIC IMPROVEMENTS. If the City shall propose to improve or make a public improvement in any street, alley or public way (herein “Public Improvement”) in a manner that may conflict with the existing gas utilities, the contractor

[†] **EDITOR’S NOTE:** Ordinance No. 287, adopting a natural gas franchise for the City, was passed and adopted on August 19, 1991.

awarded the public improvement contract shall ascertain the exact number, location and depth of gas utilities and at all times protect gas utilities from damage during the performance of the contract. The Grantee shall, upon resolution of the Council, temporarily relay or relocate gas utilities that are deemed in conflict with the public improvement, at its own expense, at a time that will not cause unreasonable inconvenience to the Grantee or its customers.

110.06 DAMAGE TO SYSTEM. If any party shall damage any part of the gas utilities or shall cause any weakening of the structural or lateral support thereof, such party shall immediately notify Grantee of the location, time of the occurrence and nature of the damage. If the damage causes or contributes to uncontrolled venting of gas, such party shall give warnings and use safeguards as may be necessary to prevent injury to persons and property in the vicinity of such venting gas, including evacuation of buildings, shall immediately notify the City as well as Grantee, and shall maintain reasonable warnings and safeguards until all damage has been repaired.

110.07 INDEMNIFICATION. Grantee shall defend at its own expense in the name and on behalf of the City and shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, whether caused or contributed to by the negligence of the Grantee or the City on account of injury or damage to any person or property caused or occasioned in whole or in part by reason of or arising out of the construction, operation or maintenance of gas utilities, except the Grantee shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the sole negligence of the City.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted

111.02 Construction – Trees

111.03 Moving Structures or Equipment

111.04 Public Improvements

111.05 Damage to System

111.06 Successors and Assigns

111.07 Eminent Domain

111.08 Indemnification

111.09 Remedies

111.01 FRANCHISE GRANTED. A nonexclusive franchise is hereby granted unto IPS Electric, a division of Iowa Public Service Company, a corporation, its successors and assigns (herein “Grantee”) for a term of twenty-five (25) years commencing with the date the ordinance codified by this chapter became effective,[†] to acquire, erect, maintain and operate plants and systems for electric light, heat and power, electric distribution systems and electric transmission systems (herein “Electric Utilities”) within the present and future corporate limits of the City, and Grantee is hereby granted the right, franchise and authority to construct, install and maintain such electric utilities over, across and under the streets, alleys and public grounds of the City, and any private lands therein and to furnish, supply, transmit and distribute electricity to the City and its inhabitants and others within and without the corporate limits for any and all lawful purposes, including public and private use, and upon such terms, conditions, restrictions and regulations as are contained in this chapter.

111.02 CONSTRUCTION – TREES. All construction, exclusive of distance from buildings, shall be in compliance with the standards of the *Iowa Electrical Safety Code* as adopted by the State Utilities Board. Grantee shall have the right to trim or remove trees when reasonably necessary to efficiently operate its plant and render service.

111.03 MOVING STRUCTURES OR EQUIPMENT. If any party, acting alone or through an agent, company or employee, shall desire to operate, erect, maintain, move or transport any tools, machinery, equipment, supplies, materials, apparatus, house or other building, or any part thereof, within the corporate limits of the City which will encroach or could reasonably be expected to encroach within ten (10) feet of any above-ground transmission or distribution line that is energized in excess of seven hundred fifty volts between conductors or between any single conductor and a ground, such party shall give a reasonable notice of such proposed work to Grantee and shall refrain from any encroachment until the same may be done in accordance with standards established to prevent electrical contact with conductors and the party shall protect electric utilities from damage during such encroachment. If good practice requires relocation or de-energizing conductors, the work shall be at a time that will not cause unreasonable inconvenience to the Grantee or its customers and shall be at the expense of such party. Grantee may require payment in advance. Grantee will not be required to relocate above-ground high voltage electric transmission lines if any alternate route exists for the performance of such work.

[†] **EDITOR’S NOTE:** Ordinance No. 288, adopting an electric franchise for the City, was passed and adopted on August 19, 1991.

111.04 PUBLIC IMPROVEMENTS. If the City shall propose to improve or make a public improvement in any street, alley or public way (herein "Public Improvement") in a manner that may conflict with the existing electric utilities, the contractor awarded the public improvement contract shall ascertain the exact number, location, depth or elevation of electric utilities and at all times protect electric utilities from damage during the performance of the contract. The Grantee shall, upon resolution of the Council, temporarily remove, relocate or guard with insulating barriers electric utilities that are deemed in conflict with the public improvement, at its own expense, at a time that will not cause unreasonable inconvenience to the Grantee or its customers.

111.05 DAMAGE TO SYSTEM. If any party shall damage any part of the electric utilities or shall cause any weakening or loss of the structural, mechanical or vertical support thereof, or cause an interruption to the electric service provided by any transmission or distribution line, such party shall give warnings and use safeguards as may be necessary, including the erection of insulating barriers to prevent electrical contact by any person and shall immediately notify Grantee of the location, time of the occurrence and nature of the damage and shall maintain reasonable warnings and safeguards until all damage has been repaired.

111.06 SUCCESSORS AND ASSIGNS. This chapter shall apply to Grantee and its successors and assigns. Grantee shall be subject to all legal right, power and authority now or hereafter possessed by the City to control and direct by ordinance or resolution the franchise herein granted and the manner in which the Grantee shall use and enjoy it.

111.07 EMINENT DOMAIN. Grantee shall have the power to appropriate and condemn private property for the purpose of providing electrical service to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting electricity in the public interest. The necessity for the taking of any private property by the Grantee by use of condemnation shall be determined by the Council by resolution.

111.08 INDEMNIFICATION. Grantee shall defend at its own expense in the name and on behalf of the City and shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, whether caused or contributed to by the negligence of the Grantee or the City on account of injury or damage to any person or property caused or occasioned in whole or in part by reason of or arising out of the construction, operation or maintenance of electric utilities, except the Grantee shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the sole negligence of the City.

111.09 REMEDIES. The City shall have the power and authority to seek and obtain civil relief through the judicial system, including but not limited to injunctive relief, to enforce and facilitate the provisions of this chapter.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

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| 113.02 Grant | 113.21 Renewal of Franchise |
| 113.03 Other Ordinances | 113.22 Conditions of Sale |
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113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Basic cable service" is the lowest priced tier of cable service that includes the retransmission of local broadcast television signals.
2. "Cable Act" means Title VI of the Cable Act of 1934, as amended.
3. "Cable services" means (i) the one-way transmission to subscribers of video programming or other programming service and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or any other programming service.
4. "Cable system" means the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the service area.
5. "FCC" means Federal Communications Commission or successor governmental entity thereto.
6. "Franchising Authority" means the City of Rockwell City, Iowa.
7. "Grantee" means MCC Iowa LLC, or the lawful successor, transferee or assignee thereof.
8. "Person" means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.
9. "Public way" means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including,

but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the service area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system.

10. "Service area" means the present boundaries of the Franchising Authority and includes any additions thereto by annexation or other legal means, subject to the exceptions in Section 113.13.

11. "Standard installation" is defined as 125 feet from the nearest tap to the subscriber's terminal.

12. "Subscriber" means a person who lawfully receives cable service of the cable system with the Grantee's express permission.

113.02 GRANT. The Franchising Authority hereby grants to the Grantee a nonexclusive franchise which authorizes the Grantee to construct and operate a cable system in, along, among, upon, across, above, over, under or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any public way such facilities and equipment as may be necessary or appurtenant to the cable system for the transmission and distribution of cable services, data services, information and other communications services or for any other lawful purposes.

113.03 OTHER ORDINANCES. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this franchise. Neither party may unilaterally alter the materials rights and obligations set forth in this franchise. In the event of a conflict between any ordinance and this franchise, the franchise shall control.

113.04 OTHER AUTHORIZATIONS. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the service area without first having secured a non-exclusive franchise from the Franchising Authority. The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this agreement to any other entity shall cover the entire service area and shall not be on terms and conditions more favorable or less burdensome to the Grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of the franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increased obligations in the renewal are not more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations.

113.05 CONDITIONS OF OCCUPANCY. The cable system installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any such public ways.

113.06 RESTORATION OF PUBLIC WAYS. If during the course of Grantee's construction, operation or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, the Grantee shall replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

113.07 RELOCATION FOR THE FRANCHISING AUTHORITY. Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes or any other type of public structures or improvements which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.

113.08 RELOCATION FOR A THIRD PARTY. The Grantee shall, on the request of any person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way as necessary any property of the Grantee, provided: (i) the expense of such is paid by the person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (ii) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this section, "reasonable advance written notice" shall be no less than thirty (30) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

113.09 TRIMMING OF TREES AND SHRUBBERY. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the cable system.

113.10 SAFETY REQUIREMENTS. Construction, operation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable Federal, State and local regulations and the *National Electric Safety Code*.

113.11 UNDERGROUND CONSTRUCTION. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate and maintain its cable system underground. Nothing contained in this section shall require the Grantee to construct, operate and maintain underground any ground-mounted appurtenances.

113.12 ACCESS TO OPEN TRENCHES. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that: (i) the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (ii) that the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

113.13 REQUIRED EXTENSIONS OF THE CABLE SYSTEM. Grantee agrees to provide cable service to all residences in the service area subject to the density requirements specified in this section. Whenever the Grantee receives a request for cable service from a potential subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least ten (10) residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its cable system to such subscribers at no cost to said subscribers for cable system extension, other than the published standard/non-standard installation fees charged to all subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the cable system into any portion of the service area where another operator is providing cable service, into any annexed area which is not contiguous to the present service area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

113.14 SUBSCRIBER CHARGES FOR EXTENSIONS OF THE CABLE SYSTEM. No subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 113.13, the Grantee shall only be required to extend the cable system to subscriber(s) in that area if the subscriber(s) are willing to share the capital costs of extending the cable system. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 10. Subscribers who request service hereunder will bear the remaining cost to extend the cable system on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the cable system from the tap to the residence.

113.15 CABLE SERVICE TO PUBLIC BUILDINGS. The Grantee, upon request, shall provide without charge a standard installation and one outlet of basic cable service to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s) and K-12 public school(s), that are passed by its cable system. The cable service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The cable service provided shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's cable system or any loss or damage to the Grantee's cable system. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of cable service required by this section. The Grantee shall not be required to provide an outlet to such buildings where a non-standard installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary cable system extension and/or non-standard installation. If additional outlets of basic cable service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

113.16 EMERGENCY ALERT. Any Emergency Alert System ("EAS") provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the Franchising Authority will be only in accordance with the applicable state and local plans as approved in accordance with such FCC regulations. Except to the extent expressly prohibited by law, the Franchising Authority will hold the Grantee, its employees, officers and assigns

harmless from any claims arising out of use of the EAS, including but not limited to reasonable attorneys' fees and costs.

113.17 REIMBURSEMENT OF COSTS. If funds are available to any person using the public way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

113.18 PUBLIC, EDUCATION AND GOVERNMENT ACCESS. The Grantee shall make available one (1) channel to be used for public, educational and governmental cablecast programming to be originated from City Hall located at 335 Main Street. When first-run programming on the first access channel occupies fifty percent (50%) of the hours between 11 a.m. and 11 p.m., for any twelve (12) consecutive weeks, the Franchising Authority may request the use of one (1) additional channel for the same purpose. The additional channel must maintain programming twenty-five percent (25%) of the hours between 11 a.m. and 11 p.m. for twelve (12) consecutive weeks. If this level of programming is not maintained, the channel will return to the Grantee for its use. The Grantee also reserves the right to program the designated public, educational and governmental channels during the hours not used by the Franchising Authority or other governmental entities. The channel(s) shall be shared with other municipalities receiving programming from the common headend receive site location. The Franchising Authority shall agree to indemnify, save and hold harmless the Grantee from and against any liability resulting from the use of the aforementioned public, educational and governmental channel(s) by the Franchising Authority.

113.19 ACCESS EQUIPMENT AND FACILITIES. The Grantee shall provide the modulator and insertion equipment for the PEG access channel. The Grantee shall also provide the City with a grant of \$1,500.00 for acquisition of access equipment. Grantee shall have no obligation to provide access beyond that above stated, or to maintain, repair or replace any other access equipment.

113.20 RATES AND CHARGES. The Franchising Authority may regulate rates for the provision of basic cable service and equipment as expressly permitted by federal law.

113.21 RENEWAL OF FRANCHISE.

1. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's franchise shall be governed by and comply with the renewal provisions of federal law.
2. In addition to the procedures set forth in the Cable Act, the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal pursuant to the Cable Act and complete renewal of the franchise prior to expiration of its term.
3. Notwithstanding anything to the contrary set forth in this section, the Grantee and the Franchising Authority agree that at any time during the term of the then

current franchise, while affording the public appropriate notice and opportunity to comment in accordance with the provisions of federal law, the Franchising Authority and Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current franchise and the Franchising Authority may grant a renewal thereof.

4. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express renewal provisions of the Cable Act.

113.22 CONDITIONS OF SALE. If a renewal or extension of Grantee's franchise is denied or the franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act. The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its cable system to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the Franchising Authority, the Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the cable system during the twelve-month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

113.23 TRANSFER OF FRANCHISE. The Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the franchise or cable system in order to secure indebtedness.

113.24 BOOKS AND RECORDS. The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee and no more than once annually, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this franchise. Such notice shall specifically reference the section of the franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing cable service in the service area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives and agents thereof that have

a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

113.25 INSURANCE REQUIREMENTS. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Franchising Authority shall be designated as an additional insured and such insurance shall be noncancellable except upon thirty (30) days' prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this section.

113.26 INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of the Grantee's construction, operation or maintenance of its cable system in the service area, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

113.27 NOTICE OF VIOLATION. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

113.28 GRANTEE'S RIGHT TO CURE OR RESPOND. The Grantee shall have thirty (30) days from receipt of the notice described in Section 113.27: (i) to respond to the Franchising Authority contesting the assertion of such noncompliance; or (ii) to cure such default; or (iii) in the event that, by the nature of the default, it cannot be cured within the thirty-day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

113.29 PUBLIC HEARING. In the event that the Grantee fails to respond to the notice as described in Section 113.27 pursuant to the procedures set forth in Section 113.28, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 113.28(iii) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days' prior written notice of such hearing, which specifies the time, place and purpose of such hearing and provide the Grantee the opportunity to be heard.

113.30 ENFORCEMENT. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in 113.29, determines that the Grantee is in material default of any provision of the franchise, the Franchising Authority may:

1. Commence an action at law for monetary damages or seek other equitable relief; or

2. In the case of repeated or ongoing substantial non-compliance with a material term or terms of the franchise, seek to revoke the franchise in accordance with Section 113.31.

113.31 REVOCATION.

1. Should the Franchising Authority seek to revoke the franchise after following the procedures set forth in Sections 113.27 – 113.30, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the franchise.
2. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law and to question witnesses. A complete verbatim record and transcript shall be made of such hearing.
3. Following the hearing, the Franchising Authority shall determine whether or not the franchise shall be revoked. If the Franchising Authority determines that the franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.
4. The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the franchise in lieu of revocation of the franchise.

113.32 FORCE MAJEURE. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the franchise or suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's cable system is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary. Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the franchise for violations of the franchise where the violation was a good faith error that resulted in no or minimal negative impact on the subscribers within the service area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or subscribers.

113.33 ACTIONS OF PARTIES. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

113.34 ENTIRE AGREEMENT. This franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this franchise shall be mutually agreed to in writing by the parties.

113.35 RESERVATION OF RIGHTS. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws. If at any time during the term of this franchise, federal, state or local law permits any provider of video programming to provide services such as those provided pursuant to this franchise either without obtaining a franchise from the Franchising Authority or on terms or conditions more favorable than those applicable to the Franchisee (Grantee), then this franchise shall at the sole discretion of the Franchisee (Grantee): (i) cease to be in effect; or (ii) be deemed to expire at a date prior to the original expiration date selected by the Franchisee (Grantee); or (iii) will be automatically reformed to grant to the Franchisee (Grantee) the more favorable terms, benefits and conditions available to the other provider.

113.36 NOTICE. Unless expressly otherwise agreed between the parties, every notice or response required by this franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: (i) upon receipt when hand delivered with receipt/acknowledgment, (ii) upon receipt when sent certified, registered mail, (iii) within five (5) business days after having been posted in the regular mail, or (iiii) the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Rockwell City
335 Main Street
Rockwell City, IA 50579

The notices or responses to the Grantee shall be addressed as follows:

Government Relations Manager
MCC Iowa LLC
2205 Ingersoll Avenue
Des Moines, IA 50312

With a copy to:

Vice President of Legal and Regulatory Affairs
Mediacom Communications Corporation
100 Crystal Run Road
Middletown, NY 10941

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this section.

113.37 TERM AND EFFECTIVE DATE. The effective date of this franchise is the date of final adoption by the Franchising Authority subject to Grantee's acceptance by countersigning. This Franchise shall be for a term of fifteen (15) years from such effective date and shall expire on June 17, 2022.

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CHAPTER 115

CEMETERY

115.01 Definition

115.02 Trusteeship

115.03 Records

115.04 Sale of Interment Rights

115.05 Perpetual Care

115.06 Rules and Regulations

115.07 Vandalism in Cemetery

115.01 DEFINITION. The term “cemetery” means the Rosehill Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property. The cemetery shall be operated in accordance with rules and regulations therefore under the direction of the Council.

(Code of Iowa, Sec. 523I.502)

115.03 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date of remains are interred.
 - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.04 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

115.05 PERPETUAL CARE. The Council, by resolution, shall accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance by State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery or interment spaces that have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.06 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of the veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

(Code of Iowa, Sec. 523I.304)

115.07 VANDALISM IN CEMETERY. Any person who destroys, injures or defaces any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to any cemetery under the jurisdiction of the City shall be liable for any and all damage, in addition to being subject to any other penalty imposed.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or

permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in

any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically 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 twenty-one (21) to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing 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 or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.

4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or

other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

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 (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

| FOR PERMITS GRANTED DURING: | FEE: |
|------------------------------------|-------------|
| July, August or September | \$ 75.00 |
| October, November or December | \$ 56.25 |
| January, February or March | \$ 37.50 |
| April, May or June | \$ 18.75 |

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of

each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

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 thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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|---------------------------------|---|
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| 122.02 Definitions | 122.11 Revocation of License |
| 122.03 License Required | 122.12 Notice |
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122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars (\$5.00) 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 ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day \$ 5.00
 - B. For one week \$ 10.00
 - C. For up to six (6) months \$ 20.00
 - D. For one year or major part thereof \$ 25.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s license in the merchant’s place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee’s local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Rockwell City – Lytton Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk

denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any method other than upon a properly licensed motor vehicle.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000 per person; \$100,000 per accident.
2. Property Damage – \$50,000 per accident.

123.06 PERMIT FEE. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag person at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

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| 135.01 Removal of Warning Devices | 135.09 Excavations |
| 135.02 Obstructing or Defacing | 135.10 Property Owner's Responsibility for Maintenance |
| 135.03 Placing Debris On | 135.11 Failure to Maintain |
| 135.04 Playing In | 135.12 Dumping of Snow |
| 135.05 Traveling on Barricaded Street or Alley | 135.13 Driveway Culverts |
| 135.06 Use for Business Purposes | 135.14 Injuring New Pavement |
| 135.07 Washing Vehicles | 135.15 Use of Parkings |
| 135.08 Burning Prohibited | |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
5. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
6. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
7. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

8. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

9. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

10. Permit Issued. Upon approval of the application and filing of the insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

11. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

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

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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.

135.14 INJURING NEW PAVEMENT. It is unlawful for any person to willfully injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

135.15 USE OF PARKINGS. It is unlawful to temporarily or permanently park, store or place any car, truck, vehicle, junk or any other goods, wares and merchandise of any kind upon any street parking without permission of the Council.

CHAPTER 136

SIDEWALK REGULATIONS

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| 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 Encroaching Steps |
| 136.04 Property Owner's Responsibility for Maintenance | 136.13 Openings and Enclosures |
| 136.05 City May Order Repairs | 136.14 Fires or Fuel on Sidewalks |
| 136.06 Sidewalk Construction Ordered | 136.15 Defacing |
| 136.07 Permit Required | 136.16 Debris on Sidewalks |
| 136.08 Sidewalk Standards | 136.17 Merchandise Display |
| 136.09 Barricades and Warning Lights | 136.18 Sales Stands |

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. 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 twelve (12) 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.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

- C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
 7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.
 9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
 10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it is 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 are 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 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.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.14 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.

136.15 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)

136.16 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])

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

| EDITOR'S NOTE | | | |
|---|--------------------|----------------------|----------------|
| The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect. | | | |
| ORDINANCE NO. | ADOPTED | ORDINANCE NO. | ADOPTED |
| 101 | August 30, 1915 | | |
| 121 | October 3, 1921 | | |
| 133A | December 24, 1925 | | |
| 143 | February 4, 1929 | | |
| 207 | June 1, 1959 | | |
| 211 | September 17, 1962 | | |
| 230 | August 20, 1973 | | |
| 279 | June 4, 1990 | | |
| 311 | October 21, 1996 | | |
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CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

| ORDINANCE NO. | ADOPTED | ORDINANCE NO. | ADOPTED |
|---------------|--------------------|---------------|---------|
| 25 | September 19, 1892 | | |
| 58 | June 20, 1902 | | |
| 60 | May 18, 1903 | | |
| 68 | October 19, 1903 | | |
| 96 | February 10, 1915 | | |
| 119 | June 7, 1921 | | |
| 126 | March 28, 1922 | | |
| 131 | July 25, 1923 | | |
| 165 | November 4, 1940 | | |
| 166 | March 3, 1941 | | |
| 169 | no date | | |
| 190 | January 3, 1955 | | |
| 212 | June 1, 1964 | | |
| 213 | June 1, 1964 | | |
| 214 | September 8, 1964 | | |
| 219 | April 3, 1967 | | |
| 220 | August 7, 1967 | | |
| | | | |
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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Rockwell City, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited

140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FA-10, FA-736C and F-370(3). On the Primary Road System extension improvement, Project No. FA-10, FA-736C and F-370(3), Primary Roads No. U.S. 20 and Iowa 4 within the City, described as follows:

Beginning at the Southwest corner (Station 428+66.6R.) of corporate limits of the City of Rockwell City, Iowa, thence north along Highway No. Iowa 4, being the west edge of the corporate limits of said city, to a point 4576.6 feet north of the Southwest corner of said corporate limits (Station 474+43.2 Rt.) and thence north, following the east “Y” arm of Highway No. Iowa 4, to point where east “Y” arm junctions with Highway No. U.S. 20 (Station 1486+06.9) being Project No. FA-10, and commencing on High Street at the west corporation line (Station 1043+28) thence easterly approximately 4339 feet (Station 999.9+89) on High Street to intersection of Fourth Street, being Project No. 370.C, said High Street in City of Rockwell City, Iowa, being also known as Highway No. U.S. 20, and beginning at the southwest corner of Section 30, Township 88 North, Range 32, (Station 983+10), also known as intersection of High Street and First Street in said City, thence east along High Street, being also known as Highway No. U.S. 20, to the east corporate line of said city (Station 42+27) being Project No. F-370(3),

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FA-10; FA-736C and F-370(3), on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

CHAPTER 141

DRIVEWAY REGULATIONS

141.01 Definitions

141.02 Permission Required

141.03 Width and Number of Curb Openings

141.04 Location of Driveway

141.05 Method of Cutting Curb

141.06 Sidewalks

141.07 Driveways to be Paved

141.08 Inspection and Approval

141.09 Existing Driveways Altered

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

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and roadway of the public street.
2. “Paving” includes any kind of hard surfacing including, but not limited to, Portland cement concrete, bituminous concrete, brick, stabilized gravel, or combinations of such materials with the necessary base. “Paving” does not include surfacing with oil, gravel, oil and gravel, or chloride.

141.02 PERMISSION REQUIRED. No curb shall be cut or changed and no parking or public property shall be used for a driveway or parking without first obtaining written permission from the Council. Enforcement of this chapter and inspections as required herein shall be carried out by the Maintenance Superintendent.

141.03 WIDTH AND NUMBER OF CURB OPENINGS. The curb opening for a single drive shall not be less than sixteen (16) feet or more than twenty-four (24) feet in width. In general, only one (1) opening shall be granted per residence in residential areas. The Council may grant additional openings in special cases such as for larger corner lots, etc. The width and number of curb openings for business and commercial places shall be determined as to the needs by the Council. Any opening onto a State-owned road shall be approved by the State Department of Transportation and the Council.

141.04 LOCATION OF DRIVEWAY. Where possible, no driveway shall be placed nearer than five (5) feet to the sidelines of owner’s property. No driveway shall be within fifteen (15) feet of any intersection at the property line.

141.05 METHOD OF CUTTING CURB. Curb shall be saw cut at least two (2) inches deep as close to face of curb as possible and at ends of opening as deep as possible. Curb shall then be removed to full depth of pavement. When curb is removed by this method, no expansion joint will be used between drive and existing pavement. One-half-inch preformed expansion joint is to be used between drive and existing pavement when existing curb drop is used.

141.06 SIDEWALKS. The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk.

141.07 DRIVEWAYS TO BE PAVED. All driveways shall be paved to property line with one of the following types of surfaces: six-inch plain Portland Cement concrete; five-inch

mesh reinforced concrete; five-inch crushed stone base with two-inch asphaltic concrete overlay; or C-4 concrete mix, subject to any exception granted by the Council.

141.08 INSPECTION AND APPROVAL. The driveway must be inspected and approved by the City within thirty (30) days after completion of the work. The City shall keep a record of such approvals. If the work is not approved, it must be corrected immediately so it will meet with the City's approval. If the work has been done improperly, the City shall have the right to finish or correct the work and the Council shall assess the cost to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

141.09 EXISTING DRIVEWAYS ALTERED. Existing driveways being altered or modified which require removal of curbing must conform to all driveway regulations.

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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 which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ROCKWELL CITY, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; 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

[†] **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.

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])

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

146.03 Foundation Requirements

146.02 Conversion to Real Property

146.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 435.1*)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home shall be located outside a manufactured home community or mobile home park only in accordance with the Zoning Ordinance of the City, and such mobile home or manufactured home shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(*Code of Iowa, Sec. 435.26 & Sec. 435.35*)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147

FIRE ZONE

147.01 Fire Zone Established
147.02 Plans Submitted
147.03 Buildings Prohibited
147.04 Construction Standards

147.05 Reconstruction Prohibited
147.06 Special Permit
147.07 Removal of Buildings
147.08 Storage of Materials Restricted

147.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

Out Lot one (1) and Out Lot two (2) of C. M. Rockwell's Addition; North one-half (½) of Block 11 and Lots 6 and 7 of Block 11, Original Town of Rockwell City; North one-half (½) of Block 12 and Lots 9 and 10 of Block 12, Original Town; North one-half (½) of Block 15, J. M. Rockwell's Addition; that part of Block 16 lying south of the East and West alley and East of the North and South alley, J. M. Rockwell's Addition; Lot 13, Block 17, J. M. Rockwell's Addition; South one-half (½) of Block 4 and Lots 1 and 2 of Block 4, Original Town; all of Block 3 and 6 lying West of the C. M. & St. P. R. R. tracks; and all of Block 5, Original Town.

147.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

147.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

147.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III fire resistant construction, as specified in the *International Building Code*.

147.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

147.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

147.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

147.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

CHAPTER 148

WATER WELL PROTECTION

148.01 Purpose

148.03 Separation Distances Table

148.02 Establishment of Separation Distances

148.01 PURPOSE. The purpose of this chapter is to establish separation distances from wells from all structures and uses, to protect the public, and to preserve the health and welfare of the community by protecting water purity.

148.02 ESTABLISHMENT OF SEPARATION DISTANCES. The distances for separating uses and construction around all wells within the City, including old wells as well as new wells, have been established by State requirements relative to possible pollutants and their distances from wells, and the Council has found that the said State requirements shall be adopted as the minimum acceptable requirements for separation distances from wells, and no construction or use shall be allowed within said minimum distances to City wells as set forth herein.

148.03 SEPARATION DISTANCES TABLE. No building or use shall be allowed within the separation distances from City wells as set out in the following table.

TABLE A: SEPARATION DISTANCES FROM WELLS

| Source of Contamination | | REQUIRED DISTANCE FROM WELL, IN FEET | | | | | | | | |
|---|--------------------------------------|--------------------------------------|------|------|------|------|------|------|------|------|
| | | 5 | 10 | 25 | 50 | 75 | 100 | 200 | 400 | 1000 |
| WASTEWATER STRUCTURES | | | | | | | | | | |
| POINT OF DISCHARGE TO GROUND SURFACE | Well house floor drains | A | | | | | | | | |
| | Water treatment plant wastes | | | | A | | | | | |
| | Sanitary and industrial discharge | | | | | | | | A | |
| SEWERS AND DRAINS | Well house floor drains to surface | A-EWM | A-WM | A-WM | A-SP | | | | | |
| | Well house floor drains to sewers | | | A-WM | A-WM | A-SP | A-SP | | | |
| | Water plant wastes | | | A-WM | A-WM | A-SP | A-SP | | | |
| | Sanitary and storm sewers, drains | | | A-WM | A-WM | A-SP | A-SP | | | |
| | Sewer force mains | | | | | A-WM | A-WM | A-WM | A-SP | A-SP |
| LAND DISPOSAL OF WASTES | Land application of solid waste | | | | | | D | S | | |
| | Irrigation of wastewater | | | | | | D | S | | |
| Concrete vaults and septic tanks | | | | | | | | | | |
| Mechanical wastewater treatment plants | | | | | | | | | | |
| Cesspools and earth pit privies | | | | | | | | | | |
| Soil absorption fields | | | | | | | | | | |
| Lagoons | | | | | | | | | | |
| CHEMICALS | | | | | | | | | | |
| Chemical application to ground surface | | | | | | | | | | |
| CHEMICAL AND MINERAL STORAGE | Above ground | | | | | | D | S | | |
| | On or under ground | | | | | | | D | S | |
| ANIMALS | | | | | | | | | | |
| Animal pasturage | | | | | | | | | | |
| Animal enclosure | | | | | | | | | | |
| ANIMAL WASTES | Land application of solids | | | | A | | | D | S | |
| | Land application of liquid or slurry | | | | | | | D | S | |
| | Storage tank | | | | | | | D | S | |
| | Solids stockpile | | | | | | | | D | S |
| | Storage basin or lagoon | | | | | | | | | D S |
| Earthen silage storage trench or pit | | | | | | | | | | |
| MISCELLANEOUS | | | | | | | | | | |
| Basements, pits, sumps | | | | | | | | | | |
| Flowing streams or other surface water bodies | | | | | | | | | | |
| Cisterns | | | | | | | | | | |
| Cemeteries | | | | | | | | | | |
| Private wells | | | | | | | | | | |
| Solid waste disposal sites | | | | | | | | | | |

| KEY | |
|-----|--|
| D | Deep Well |
| S | Shallow Well |
| A | All Wells |
| WM | Pipe of Water Main Specifications |
| SP | Pipe of Sewer Pipe Specifications |
| EWM | Water Main Pipe Specifications Encased in 4 inches of Concrete |

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CHAPTER 149

SWIMMING POOL ENCLOSURES

149.01 Definition

149.02 Enclosure of Swimming Pool

149.03 Gates

149.04 Applicability

149.01 DEFINITION. The term “swimming pool” as used in this chapter means any artificially constructed pool capable of being used for swimming or bathing, having a depth of more than eighteen (18) inches at any point. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

149.02 ENCLOSURE OF SWIMMING POOL. Except as otherwise provided, every outdoor swimming pool shall be completely surrounded by a fence or wall at least four (4) feet in height and at least four (4) feet from each side of the pool, except when the fence height is six (6) feet or greater. Such fence or wall shall be non-climbable and shall be constructed of sufficiently strong materials and of such structural design as to make the pool inaccessible to small children. There shall not be a distance greater than ten (10) feet between fence posts. Enclosure of an above-ground swimming pool shall be accomplished in an approved manner that will reasonably secure the pool and any deck or platform attached thereto from unauthorized access by small children and shall provide a degree of security at least the equivalent of that required for in-ground swimming pools. For the purpose of this requirement a fence or wall which is designed to attach to the vertical water enclosing fence may be used in such a manner that the combined height of the pool and fence will equal a height not less than six (6) feet. In the case of hot tubs and spas, the enclosure requirement may be satisfied with a cover which will render the water contained therein inaccessible to unauthorized use. 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 twenty-four (24) hours.

149.03 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 at all times when not in actual use.

149.04 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 two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

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| <p>151.01 Purpose</p> <p>151.02 Definitions</p> <p>151.03 Planting Restrictions</p> <p>151.04 Removal of Trees Prohibited</p> <p>151.05 Street Tree Species to be Planted</p> <p>151.06 Spacing</p> <p>151.07 Distance from Curb and Sidewalk</p> <p>151.08 Distance from Street Corners and Fire Hydrants</p> | <p>151.09 Utilities</p> <p>151.10 Public Tree Care</p> <p>151.11 Tree Topping</p> <p>151.12 Duty to Trim Trees</p> <p>151.13 Removal of Dead or Diseased Trees</p> <p>151.14 Removal of Stumps</p> <p>151.15 Arborists Insurance Required</p> |
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151.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City.

151.02 DEFINITIONS. For use in this chapter, the following definitions are given.

1. “Park trees” are trees, shrubs, bushes and all other woody vegetation in public parks and other areas owned by the City to which the public has free access as a park.
2. “Street trees” are trees, shrubs, bushes and all other woody vegetation on land owned by the City and lying between property lines on either side of all streets, avenues or ways within the City.

151.03 PLANTING RESTRICTIONS. No tree shall be planted in any street, avenue or highway between the outer line of the sidewalk and the curb where the curb line is established, or where the curb line is not established, on a line ten (10) feet from the property line, unless in conformity with the provisions of this chapter.

151.04 REMOVAL OF TREES PROHIBITED. It is unlawful for any person to remove any tree from public grounds without written permission from the Tree Board.

151.05 STREET TREE SPECIES TO BE PLANTED. The following list constitutes the official street tree species for the City. No species other than those included in this list shall be planted as street trees without written permission of the City Tree Board.

| SMALL TREES | MEDIUM TREES | LARGE TREES |
|---|---|---|
| Flowering Crab Washington Hawthorne Bradford Pear Purpleleaf Plum Redbud European Mt. Ash Saucer Magnolia Amur Maple | Green Ash Hackberry Thornless Honey Locust American Linden or Basswood Red Maple Norway Maple River Birch Littleleaf Linden Catalpa Pin Oak American Beech White Birch | Kentucky Coffeetree Silver Maple Sugar Maple Bur Oak London Plantree Sycamore Dawn Redwood Red Oak Tulip Tree Scarlet Oak |

151.06 SPACING. The spacing of street trees will be in accordance with the three species size classes, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect or approved by the City Tree Board.

151.07 DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size classes and no trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet.

151.08 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS. No street tree shall be planted closer than twenty (20) feet from any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten (10) feet from any fire hydrant.

151.09 UTILITIES. No street trees other than those species listed as small trees may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground utility line, water line or sewer line.

151.10 PUBLIC TREE CARE. The City has the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest; provided, however, such removal shall be conducted in accordance with tree removal policies of the tree plan. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this chapter.

151.11 TREE TOPPING. It is unlawful as a normal practice for any person or City department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Tree Board.

151.12 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on public or private property trimmed so that all branches will be at least eight (8) feet above the sidewalks and fifteen (15) feet above the surface of streets. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax. Except as allowed in this section, it is unlawful for any property owner to trim or cut any tree in a street or public place.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.13 REMOVAL OF DEAD OR DISEASED TREES. The City has the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees within the City. The Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within thirty (30) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

151.14 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump does not project above the surface of the ground.

151.15 ARBORISTS INSURANCE REQUIRED. It is unlawful for any person to engage in the business or occupation of pruning, treating or removing street or park trees within the City without filing evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 for property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

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CHAPTER 160

FLOOD PLAIN REGULATIONS

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| 160.01 Purpose | 160.13 Action on Application |
| 160.02 Definitions | 160.14 Construction and Use to Be as Provided in Application and Plans |
| 160.03 Lands to Which Chapter Applies | 160.15 Variances |
| 160.04 Rules for Interpretation of Flood Hazard Boundaries | 160.16 Factors Upon Which the Decision to Grant Variances Shall be Based |
| 160.05 Compliance | 160.17 Conditions Attached to Variances |
| 160.06 Abrogation and Greater Restrictions | 160.18 Nonconforming Uses |
| 160.07 Interpretation | 160.19 Amendments |
| 160.08 Warning and Disclaimer of Liability | 160.20 Penalties for Violation |
| 160.09 Flood Plain Management Standards | 160.20 Severability |
| 160.10 Administration | |
| 160.11 Flood Plain Development Permit Required | |
| 160.12 Application for Permit | |

160.01 PURPOSE. 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. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. **Restrict Use.** Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. **Vulnerable Uses Protected.** Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one percent (1%) 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 man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of

equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. 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) was completed before the effective date of these flood plain management regulations.

6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.
15. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. "Historic structure" means any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and
 - B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and
 - D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “Minor projects” 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 Flood Insurance Rate Map.
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 these flood plain management regulations.
22. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.
23. “Recreational vehicle” means a vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
24. “Routine maintenance of existing buildings and facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
25. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the 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 fifty percent (50%) 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 fifty percent (50%) of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of 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 twenty-five percent (25%) or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

30. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

31. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Rockwell City. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Maps for Calhoun County and Incorporated Areas, City of Rockwell City, Panels 19025C0192B, 0194B, 0211B, and 0213B, dated April 19, 2016, which is hereby adopted and made part of this Chapter.

160.04 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 Zoning Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.

160.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.06 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.09 FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood elevations and floodway data have been provided on the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development 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 (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) 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 (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State 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 flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-built Homes.
- A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
- B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems.
- A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
- C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
- D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures to Residential Uses.

A. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

(2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

(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 resist flotation, collapse and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of CH160.09 (5) of this Chapter.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by

quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.10 ADMINISTRATION. The Zoning Administrator shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to 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 flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

160.11 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.12 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.

2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.13 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.15 VARIANCES. The Zoning Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the

applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Zoning Board of Adjustment shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

160.17 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.16, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural

Resources and are deemed the only practical alternative to achieving the purposes of this chapter.

5. Floodproofing measures.

160.18 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

- A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.

- B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) 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.

160.19 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

160.20 PENALTIES FOR VIOLATION. Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained prevent the City of Rockwell City from taking such other lawful action as is necessary to prevent or remedy violation.

160.21 SEVERABILITY. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

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CHAPTER 165

ZONING REGULATIONS

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165.01 SHORT TITLE AND JURISDICTION. This chapter shall be known and may be cited and referred to as the “Zoning Ordinance of the City of Rockwell City.” This chapter is adopted by the City to govern the zoning of all lands within the corporate limits of the City.

165.02 INTERPRETATION OF REGULATIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law, other rules, regulations, or ordinances, the provisions of this chapter shall govern.

165.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are hereby defined. The words “used” or “occupied” include the words “intended, designed or arranged to be used or occupied.”

1. “Accessory use or structure” means a use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.
2. “Alley” means a public or private thoroughfare which affords only a secondary means of access to abutting property.
3. “Apartment” means a single room or set of rooms occupied as a dwelling (including independent sleeping, sanitary, and cooking facilities) which is part of multi-family structure.
4. “Awning” or “canopy” means a roof-like cover extending over or before a place as a shelter. An awning shall have a pedestrian head clearance of at least seven (7) feet.
5. “Basement” means a story having more than one-half (1/2) of its height below grade. A basement is not counted as a story for the purpose of height regulations.
6. “Billboard” means a structure, regardless of the material used, that is erected, maintained or used for public display of posters, painted signs, or wall signs, whether the structure be placed on the wall or painted itself, pictures or other pictorial reading

material which advertise a business or attraction which is not carried on, manufactured, grown or sold on the premises where said sign or billboard is located.

7. "Block" means property abutting on at least one (1) street and lying within two (2) or more intersecting or parallel streets or unsubdivided acreage or railroad right-of-way.

8. "Boarding, rooming, or lodging house" or "bed and breakfast" means a building other than a hotel where for compensation, and by arrangement, lodging is provided.

9. "Buildable area" means the portion of a lot remaining after required yards have been provided.

10. "Building" means a structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

11. "Building, height of" means the vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

12. "Business," "commercial" and "manufacturing," when used herein refer to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices or recreational amusement enterprises.

13. "Carport" means space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls. A carport may be attached to another building or be an accessory structure.

14. "Club" or "lodge" (private) means an association of persons for the promotion of a nonprofit objective, who are bona fide members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals to members and their guests on such premises provided adequate dining room space and kitchen facilities are available and are operated in compliance with State and municipal laws.

15. "Day nursery" or "nursery school" means any private agency, institution, establishment or place which provides, for compensation, supplemental parental care and/or educational work, other than overnight lodging, for six (6) or more unrelated children.

16. "Driveway" means a traffic way providing access for vehicles to a building on property abutting a public street.

17. " Dwelling" means any building or portion thereof designed or used exclusively for residential purposes, but not including a tent or seasonal trailer. A mobile home which has been converted to real estate and is greater in width than twenty (20) feet and has a permanent foundation and is attached to normal City utilities, is considered a dwelling for purposes of this chapter.

18. " Dwelling, multiple" means a residence designed for the occupancy by three (3) or more families, with separate housekeeping and cooking facilities for each.

19. “Dwelling, single-family” means a detached residence designed for or occupied by only one family and contains independent cooking facilities for the family.
20. “Dwelling, two-family” means a residence designed for or occupied by two (2) families, with separate entrances, housekeeping, and cooking facilities for each.
21. “Essential services” means the erection, construction, alteration or maintenance by developers, public utilities, or governmental agencies of underground or overhead gas, telephone, television, electrical, wastewater collection, water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for public health or safety or general welfare.
22. “Family” means one (1) or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boarding or lodging house, nursing or convalescent home, hotel or motel, as herein defined.
23. “Farm/Agriculture” means an area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, but not including the concentrated feeding of animals within a confined area. The definition includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity and such accessory uses do not include the feeding of garbage or offal to swine or other animals.
24. “Fence” means an erection intended to prevent escape or intrusion or to mark a boundary. For purposes of this chapter, a fence is composed of posts, wire, or boards. Within a required front yard fences shall not exceed forth-eight (48) inches in height and shall not be opaque.
25. “Garage, commercial” means a building or portion thereof, designed, intended, or used for the equipping, servicing, selling, hiring, storing, care, or repair of motor vehicles, and which is operated for commercial purposes.
26. “Garage, private” means an enclosed structure intended for and used for the parking of the private motor vehicles of the families resident upon the premises.
27. “Gasoline service stations” means any building or premises used for the retail sale of liquid fuels, oils and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs. When the dispensing, retail sale or offering for retail sale is incidental to the conduct of a commercial garage, the premises shall be classified as a commercial garage.
28. “Grade” means the average level of the finished surface of the ground adjacent to the exterior walls of the building.
29. “Granny flat” means a temporary accessory residential structure placed on a residential zoned lot and occupied by relatives of the owners of the lot on which it is located.

30. "Home occupation" means an occupation or a profession conducted in a dwelling unit, which:

- A. Is customarily carried on in a dwelling unit or accessory buildings, and
- B. Is carried on by a member of the family residing in the dwelling unit, and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
- D. Does not employ more than two (2) persons outside the immediate family, and
- E. Has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one (1) exterior sign mounted flush with the face of the building, which sign shall not exceed four (4) square feet in area, and
- F. Does not occupy more than thirty percent (30%) of the area of the dwelling unit, and
- G. Produces no offensive noise, vibration, smoke, excessive congestion, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

31. "Junk yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including automobile, tractor or machinery wrecking and used parts yards, and the processing of used, discarded or salvaged materials as part of manufacturing operations. Where permitted by district regulations salvage shall either be located within a rear yard or fully enclosed within a building. In addition, junk yards located within one thousand (1,000) feet of a State, Federal or County highway shall obtain a current "recycler's license" from the Iowa Department of Transportation. Junk yards located over 1,000 feet from a State, Federal or County highway shall be screened from view from a public street by the same screening regulations as provided by the Iowa Department of Transportation when granting a "recycler's license."

32. "Junk vehicle" or "junk machinery" means any vehicle or portion thereof not in running condition and/or not licensed for the current year as provided by law and not legally placed in storage with the County Treasurer, or any other vehicle or machinery which, because of its defective or obsolete condition, or rotted, rusted or loose parts, or in any other way constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1, *Code of Iowa*.

33. "Kennel, dog" means any premises on which four (4) or more dogs, six (6) months old or older, are kept.

34. "Lot" means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area to provide such yards and other open space as herein required. Such lot shall have frontage on a public street and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.
35. "Lot area" means the area of a horizontal plane bounded by the front, side and rear lot lines.
36. "Lot, corner" means a lot fronting on two (2) intersecting streets.
37. "Lot depth" means the mean horizontal distance between the front and rear lot lines.
38. "Lot, interior" means a lot other than a corner lot.
39. "Lot lines" means the lines bounding a lot.
40. "Lot line, front," in the case of an interior lot, abutting on only one (1) street, means the street line of such lot. In the case of any other lot, the front lot line shall be considered as the line adjacent to the street upon which the lot has its least dimension.
41. "Lot line, rear" means that boundary line which is opposite and most distant from the front line.
42. "Lot line, side" means any boundary line not a front lot line or a rear lot line.
43. "Lot of record" means a lot which is a part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
44. "Lot, through" means an interior lot having frontage on two (2) parallel, or approximately parallel streets and also known as a double fronted lot.
45. "Lot width" means the width of a lot as measured at the required front yard setback line.
46. "Mobile home" means a vehicle used, or so originally constructed as to permit being used, as conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwellings, or sleeping places for one (1) or more persons, provided further that this definition refers to and includes all portable contrivances used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed, or transported by another vehicle. Mobile homes of less than twenty (20) feet in width shall be located within a mobile home park. (See also definition for "dwelling.")
47. "Mobile home converted to real estate" means a mobile home, at least twenty (20) feet in width, which has been attached to a permanent foundation on real estate, which has had the vehicular frame destroyed rendering it impossible to reconvert to a mobile home, and which has been inspected by the assessor, the mobile home title, registration, and license plates collected from the owner and the property entered on the tax rolls of the County.

48. “Mobile home park” or “trailer park” means any lot or portion of a lot upon which one (1) or more mobile homes or trailers for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodations.
49. “Motel,” “motor court,” “motor lodge” or “tourist court” means any building or group of buildings containing guest rooms primarily for temporary occupancy, and laid out to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for the use of the operating personnel.
50. “Nursing home” (including convalescent and group homes) means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, but not including penal or disciplinary cases.
51. “Parking space” means a surfaced area of not less than 180 square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way.
52. “Porch, unenclosed” means a roofed projection which is partially enclosed by a building or siding material other than meshed screens.
53. “Principal use” means the main use of land or structures as distinguished from an accessory use.
54. “Professional office” means any building or part thereof used by one or more persons engaged in the practice of law, accounting, architecture, medicine, engineering or other occupation customarily considered as a profession.
55. “Roadside stand” means a temporary structure, unenclosed, and so designed and constructed so the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products produced or grown on the premises.
56. “Sign area” means the surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.
57. “Sign, exterior” means a sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located. An exterior sign may be attached flat against a building or structure, painted on the building or structure, projecting out from a building or structure, or erected upon the roof of a building or structure.
58. “Sign, free standing or post” means any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs, or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof.

59. "Split level" means a story having not more than one-half (1/2) of its height below grade. A split-level story is counted as a story for purposes of height regulations.
60. "Stable" means an accessory structure, including but not limited to a corral or paddock for the keeping of hooved animals owned or controlled by the occupants of the premises and which are kept for pets, board, propagation, sale, or lease.
61. "Story" means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
62. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.
63. "Street line" means the right-of-way line of a street, road or highway.
64. "Street, public" means a public thoroughfare more than twenty (20) feet in width.
65. "Structural alteration" means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs, and maintenance.
66. "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, decks, poster panels, and carports.
67. "Variance" means a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Zoning Ordinance would result in unnecessary and undue hardship. A variance may be authorized only for height of structures and area and size of lots, yards, and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in adjoining zoning districts.
68. "Yard" means an open space on the same lot with a building or structure. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.
69. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps and eaves. In the case of corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension, unless the structure can be placed on the lot and meet all required yard requirements, in which case either street side may be the front yard.
70. "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the structure or any projections other than

uncovered steps, balconies or eaves. On both corner lots and interior lots the opposite end of the lot from the front yard shall be considered the rear yard.

71. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

72. “Zoning Administrative Officer” means the individual appointed by the City Council to administer and enforce the provisions of this chapter.

73. “Zoning compliance permit” means a permit issued by the Zoning Administrative Officer, authorizing the use of land in the manner and for the purpose specified in the application.

165.04 DISTRICTS. For the purpose and intent of this chapter the City is hereby divided into zoning district classifications as follows:

- A-1 Agricultural District
- R-1 One- and Two-Family Dwelling District
- R-2 Multi-Family Dwelling District
- R-3 Mobile Home Park District
- R-4 Planned Residential District
- C-1 Central Commercial District
- C-2 Highway Commercial District
- M-1 General Industrial District

165.05 BOUNDARIES AND OFFICIAL MAP. The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zoning Map of Rockwell City, Iowa, which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this chapter as if fully described and set forth herein. Amendments, supplements, or changes of the boundaries of districts as shown on the Official Zoning Map shall be made by an ordinance amending this chapter. The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the City Clerk as other ordinances and a certified copy thereof be attached to the Official Zoning Map. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning Map, together with amending ordinances, shall be the final authority as to current zoning status of land and water areas, buildings, and other structures in the City. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof.[†]

[†] See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.

165.06 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys or other public rights-of-way shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
4. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
5. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed as following such centerlines.
6. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
7. Boundaries not capable of being determined in the previous paragraphs shall be as dimensioned on the Official Zoning Map or if not dimensioned shall be determined by the scale shown on the map.

165.07 ANNEXED TERRITORY. All territory which may hereafter be annexed to the City shall be considered as lying in the One (1) and Two (2) Family Dwelling District (R-1) until such classification shall have been changed by amendment.

165.08 GENERAL REGULATIONS. Except as herein provided:

1. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, nor shall any use of the land be changed, which does not comply with all of the district regulations for the district in which the building or land is located.
2. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum required. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard, open space, or off-street parking or loading space required under this chapter for another building, structure or use.
3. Every building hereafter erected or subject to structural alteration shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.

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165.09 AGRICULTURAL DISTRICT (A-1). The intent of the A-1 District is to allow for the agricultural use of certain areas until such time as streets, utilities and community facilities may be provided or programmed to ensure the orderly and beneficial conversion of these lands to nonagricultural uses.

1. Principal Uses Permitted. Only the following uses and structures shall be permitted in the A-1 District.
 - A. Agriculture, including the usual agricultural buildings and structures, but not including commercial feed lots, the concentrated feeding of animals within a confined area, commercial grain storage, and grain drying facilities.
 - B. Single family dwellings.
 - C. Cemeteries.
 - D. Public parks, golf courses, playground, and recreation areas, including private, non-commercial, country clubs, golf courses, and swimming pools.
 - E. Nurseries, greenhouses, and truck gardens.
 - F. Kennels or stables, provided that exercise areas not be closer than 200 feet to any residential dwellings other than the owner's.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
 - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions.
 - B. Home occupations.
 - C. Roadside stands for the sale of agricultural produce grown on the premises.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Essential services.
 - F. Private garage or carport.
 - G. Churches, chapels, temples and similar places of worship.
 - H. Government owned and operated security/correctional facilities.
3. Special Exception Uses and Structures. The following uses may be permitted in the Agricultural District (A-1) subject to approval by the Board of Adjustment as provided for in this chapter.
 - A. Grain storage and grain drying facilities.
 - B. Transmitters, towers, receiver equipment.
4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17:

- A. Lot Area: The minimum lot area shall be 43,560 square feet.
 - B. Lot Width: The minimum lot width shall be 100 feet.
 - C. Front Yard: The minimum front yard shall be 30 feet.
 - D. Side Yard: The minimum side yard shall be 25 feet.
 - E. Rear Yard: The minimum rear yard shall be 25 feet.
 - F. Maximum Height: No building shall exceed a height of 2½ stories or 35 feet, unless otherwise provided.
- 5. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
 - 6. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
 - 7. Signs. Signs are permitted subject to the provisions of Section 165.20.

165.10 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT (R-1). The intent of the R-1 District is to provide for low to medium density residential development with a limited number of institutional and recreational facilities permitted.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the R-1 District:
 - A. One-family dwellings.
 - B. Two-family dwellings (duplexes).
 - C. Churches, chapels, temples and similar places of worship.
 - D. Schools and colleges having curriculums approved by the State of Iowa.
 - E. Publicly owned and operated buildings, parks, playgrounds, golf courses, and recreation areas.
 - F. Funeral home.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
 - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions.
 - B. Private garage or carport.
 - C. Home occupations.
 - D. Essential services.
 - E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the R-1 District subject to provisions of this chapter and with the approval of the Board of Adjustment:
 - A. Hospitals, rest homes, nursing homes, and convalescent homes.
 - B. Day nursery or nursery school.
 - C. Boarding or lodging house.
4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17:
 - A. Lot Area: The minimum lot area shall be:
 - (1) Single-family dwelling: 8,000 square feet.
 - (2) Two-family dwelling: 10,000 square feet.
 - (3) Other uses: 8,000 square feet.
 - B. Lot Width: The minimum lot width shall be 75 feet.

- C. Front Yard: The minimum front yard shall be 30 feet.
 - D. Side Yard: The minimum side yard shall be 8 feet.
 - E. Rear Yard: The minimum rear yard shall be 25 feet.
 - F. Maximum Height: No building shall exceed a height of 2½ stories or 35 feet, unless otherwise provided.
- 5. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
 - 6. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
 - 7. Signs. Signs are permitted subject to the provisions of Section 165.20.

165.11 MULTI-FAMILY RESIDENTIAL DISTRICT (R-2). The intent of the R-2 District is to provide for living areas within the City for development of multiple-family dwellings and single-family dwellings which are compatible in character and density with the multiple-family residential environment.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the R-2 District:
 - A. One-family dwelling.
 - B. Two-family dwellings (duplexes).
 - C. Multi-family dwellings, or apartments.
 - D. Boarding or lodging houses.
 - E. Churches, chapels, temples and similar places of worship.
 - F. Schools and colleges having curriculums approved by the State of Iowa.
 - G. Publicly owned and operated buildings, parks, playgrounds, golf courses, and recreation areas.
 - H. Day nursery or nursery schools.
 - I. Funeral Homes.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
 - A. Private garage or carport.
 - B. Home occupations.
 - C. Essential services.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures permitted as exceptions.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the R-2 District subject to provisions of this chapter with the approval of the Board of Adjustment:
 - A. Rest homes, nursing homes, and convalescent homes.
4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17.
 - A. Lot Area: The minimum lot area shall be:
 - (1) One-family dwelling - 8,000 square feet.
 - (2) Two-family dwelling - 10,000 square feet.
 - (3) Multi-family dwelling - 3,000 square feet per dwelling unit, but in no case less than a total of 12,000 square feet.

- (4) Other uses - 8,000 square feet.
 - B. Lot Width: The minimum lot width shall be 75 feet.
 - C. Front Yard: The minimum front yard setback shall be 30 feet.
 - D. Side Yard: For one- and two-family dwellings there shall be a side yard not less than 8 feet. For multiple-family structures and other uses there shall be a side yard of 12 feet.
 - E. Rear Yard: The minimum rear yard shall be 25 feet.
 - F. Maximum Height: No building shall exceed a height of 2½ stories or 35 feet unless otherwise provided.
- 5. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
 - 6. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
 - 7. Signs. Signs are permitted subject to the provisions of Section 165.20.

165.12 MOBILE HOME PARK DISTRICT (R-3). The R-3 District shall provide for mobile home developments in areas of the community where their use is compatible with existing and future residential areas. This district shall be well served by arterial streets to provide adequate access and planned development that is compatible with the character of neighboring uses.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the R-3 District.
 - A. Mobile homes located within planned mobile home parks in accordance to provisions of State statutes and any City regulation.
 - B. Publicly owned and operated buildings, parks, playgrounds, and recreation areas.
 - C. Day nursery or nursery schools.
 - D. Churches, chapels, temples and similar places of worship.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
 - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions.
 - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - C. Essential services.
 - D. Home occupations.
3. Special Exception Uses and Structures. The following uses may be permitted in R-3 Districts subject to approval by the Board of Adjustment as provided for in this chapter.
 - A. None.
4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17:
 - A. Minimum lot area for mobile home park:
 - B. The minimum total area shall be two acres.
 - C. All front yards shall be a minimum of 30 feet.
 - D. Each mobile home located within a Mobile Home Park shall be located on a sub-lot containing at least 3,000 square feet and shall measure at least 40 by 75 feet.
 - E. Mobile homes shall be located on each space so there will be at least a 20-foot clearance between each mobile home, a 5-foot open space between the mobile home including any permanently enclosed appendage, and any driveway, walkway, or mobile home space boundary; and a 10-foot open space at the rear of the mobile home.

5. Plan Required. Each petition for a change to the R-3 zoning classification shall be accompanied by a plan. Said plan shall show each mobile home space, the water, electrical and sewer lines serving each mobile home space, the location of garbage cans, water hydrants, service buildings, driveways, walkways, recreation areas, required yards, parking facilities, lighting and landscaping. The plan shall be considered by the Planning and Zoning Commission and the Council, who may approve or disapprove said plan or require such changes as are necessary to effectuate the intent of this chapter. The plan shall show how the mobile home park is to be provided with emergency storm shelters to accommodate all park residents in the case of severe storms and natural disasters.
6. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
7. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
8. Signs. Signs are permitted subject to the provisions of Section 165.20.

165.13 PLANNED RESIDENTIAL DISTRICT (R-4). The R-4 District is intended to provide for the development of large tracts of ground by allowing greater flexibility and diversification of land uses and building locations than allowed by the single lot method. Principles of land use planning, including a balanced relationship between various types of uses, must be maintained and zoning standards set forth in this chapter concerning population density, light and air, recreation and open space, and building coverage must be preserved.

1. Procedure. The owner of any tract of land not less than ten (10) acres may submit to the Council a plan for the use and development of the entire tract. Such plan shall be referred to the Planning and Zoning Commission for study and recommendation. The Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan and with principles of urban design, land use planning, and landscape architecture. The Commission may approve, disapprove, or require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary for preserving the intent and purpose of this chapter. The approved plan shall be reported to the Council, whereupon the Council may (after notice and public hearing) approve or disapprove said plan or may require such changes as it deems necessary to effectuate the intent and purpose of this chapter. Upon approval of the plan the Council shall initiate a change in zoning of the tract to the R-4 District classification.
2. Standards. Land usage, minimum lot area, yards, building height, and accessory uses shall be determined by the requirements set out below, which shall prevail over conflicting requirements of this chapter or the Subdivision Regulations.
 - A. The buildings shall be used for residential purposes and the following accessory uses: garages; storage spaces; noncommercial recreational facilities; and community activities including churches and schools.
 - B. The minimum yard and height requirements of the zoning district in which the development is located shall not apply except that minimum yards specified in the district shall be provided around the boundaries of the area being developed.
 - C. Uses along the project boundary lines shall not be in conflict with those allowed in adjoining or opposite property. To this end the Commission and Council may require that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.
 - D. A plat of the development shall be recorded showing building lines, building locations, common land, streets, easements, and items required by the Subdivision Regulations.
 - E. No building permits shall be issued until the final plat is approved and recorded.
3. Deed Restrictions. The Commission and Council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. Common land shall refer to spaces dedicated to public use and to land retained in private ownership but intended for the use of the residents of the development or the general public.

4. Density Requirements. The maximum number of dwelling units to be permitted is calculated by dividing the total area of the development by the minimum lot area per dwelling unit permitted by the zoning district in which the development is located. However, before dividing to determine the number of units allowed, the acres set aside for churches, schools, streets, parks, or other similar public spaces are to be deducted from the total project acreage. If the planned unit development is to contain only multiple-family dwellings the areas set aside for common land, open space, or recreation may be added to the total development acreage before the total is divided to determine the number of units allowed. However, in an R-1 District the maximum percentage of units that may be multi-family is fifty percent (50%), and in any R-2 District the maximum percentage of units that may be multi-family is seventy-five percent (75%). If the development area contains two (2) or more different zoning classifications, the number of dwelling units permitted and the percentage of multiples allowed shall be determined in direct proportion to the area of each zoning classification contained in the entire tract.

5. Completion. The Council shall make the approval of the development plan contingent upon completion of improvements within a reasonable period of time. In determining such time period the Council shall consider the scope and magnitude of the development and any schedule of construction and improvements submitted by the developer. Failure to complete all construction and improvements within said period of time shall be deemed sufficient cause for the Council to rezone the property to the classification effective at the time of original submission of the development plan, unless an extension is recommended by the Commission and approved by the Council. Any proposed change in the development plan after approval by the Council shall be resubmitted and considered in the same manner as the original proposal.

165.14 CENTRAL COMMERCIAL DISTRICT (C-1). The intent of the C-1 District is to provide for a commercial area to serve the shopping needs of the trade area and to permit uses which will strengthen the central business district as the center of trade, service, government and cultural activities.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the C-1 District:

- A. Antique shops.
- B. Art and hobby shops.
- C. Auto parts store.
- D. Automobile sales and service.
- E. Bakery, retail.
- F. Bank, savings and loans, including drive-ins.
- G. Barber shop, beauty parlor.
- H. Billiard or pool hall.
- I. Bookstore.
- J. Catering.
- K. Clothing or apparel store.
- L. Convention building for private display.
- M. Dairy store.
- N. Day nursery or nursery school.
- O. Department store.
- P. Drug store.
- Q. Dry goods and notions store.
- R. Eating and drinking establishments.
- S. Electrical equipment and appliance stores.
- T. Florist shop.
- U. Furniture store.
- V. Gift shop.
- W. Grocery store.
- X. Gymnasium, bowling alleys, dance studios.
- Y. Hardware store.
- Z. Heating and air conditioning sales.
- AA. Jewelry store.
- BB. Laundry facility.

- CC. Multi-family residential uses, provided that such uses not be in the first, ground, or basement floor of any structure.
 - DD. Office equipment store.
 - EE. Optical goods store.
 - FF. Paint, lumber, and building supplies store.
 - GG. Photography and camera shops.
 - HH. Plumbing, heating, sheet metal, and woodworking shops.
 - II. Publicly owned buildings.
 - JJ. Printing, newspaper, commercial.
 - KK. Private parking lots.
 - LL. Professional offices.
 - MM. Retail pet shop.
 - NN. Shoe store and repair shop.
 - OO. Sporting goods store.
 - PP. Upholstery shop.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
- A. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - B. Accessory uses and structures normally incidental and subordinate to the permitted uses and to uses and structures permitted as exceptions.
 - C. Essential services.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the C-1 District subject to provisions of this chapter and with the approval of the Board of Adjustment.
- A. None.
4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17.
- A. Lot Area: No minimum lot area shall be required.
 - B. Lot Width: No minimum lot width shall be required.
 - C. Front Yard: No minimum front yard shall be required.
 - D. Side Yard: No minimum side yard shall be required, except when adjoining an "R" District, in which case 10 feet shall be provided.
 - E. Rear Yard: No minimum rear yard is required except when adjoining an "R" District in which case a rear yard of 25 feet shall be provided.

- F. Maximum Height: No building shall exceed a height of 2½ stories or 35 feet unless otherwise provided.
- 5. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
- 6. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
- 7. Signs. Signs are permitted subject to the provisions of Section 165.20.

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165.15 HIGHWAY COMMERCIAL DISTRICT (C-2). The intent of the C-2 District is to establish the location of areas best suited to the needs of highway related businesses whose primary function is catering to traffic generated by the adjacent roadway. These uses are characterized by the need for larger lot sizes and the need to supply their own off-street parking.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the C-2 District:

- A. Academy for riding, dancing etc.
- B. Auditorium, exhibition hall, club.
- C. Automobile service station and body shop.
- D. Automobile sales and service.
- E. Bowling alley.
- F. Car wash.
- G. Carpentry shop.
- H. Commercial nurseries and greenhouses.
- I. Commercial recreation or amusement.
- J. Day nursery or nursery school.
- K. Discount department store.
- L. Drive-in establishment.
- M. Dry cleaning and coin operated laundry.
- N. Eating and drinking establishments.
- O. Furniture and appliance stores.
- P. Garden supplies stores.
- Q. Hay, grain, feed, seed, retail.
- R. Lumber and building materials.
- S. Mobile homes and recreational vehicle sales.
- T. Motels and motor lodges.
- U. Nursing Homes.
- V. Open-air sales of autos, implements, trucks.
- W. Private clubs.
- X. Private parking lots.
- Y. Professional office.
- Z. Publicly owned buildings.
- AA. Retail pet shop and veterinarian.
- BB. Sign painting or manufacture.

- CC. Supermarkets, grocery store.
 - DD. Underground storage of flammable liquids, not to exceed 25,000 gallons and provided it is located at least 200 feet from any "R" District. Above ground storage of flammable fuels must be in accordance with current regulations of the State Fire Marshal and any applicable requirements of the City Fire Department.
 - EE. Wood working shop.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
 - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions.
 - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - C. Essential services.
 - D. Churches, chapels, temples and similar places of worship.
 3. Special Exception Uses and Structures. The following uses and structures may be permitted in the C-2 District subject to provisions of this chapter and with the approval of the Board of Adjustment.
 - A. None.
 4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17:
 - A. Lot Area: The minimum lot area shall be 10,000 square feet.
 - B. Lot Width: The minimum lot width shall be 100 feet.
 - C. Front Yard: The minimum front yard shall be 30 feet.
 - D. Side Yard: No minimum side yard shall be required, except when adjoining an "R" District, in which case 10 feet shall be provided.
 - E. Rear Yard: No minimum rear yard is required except when adjoining an "R" District in which case a rear yard of 25 feet shall be provided.
 - F. Maximum Height: No building shall exceed a height of 2½ stories or 35 feet unless otherwise provided.
 5. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
 6. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
 7. Signs. Signs are permitted subject to the provisions of Section 165.20.

165.16 GENERAL INDUSTRIAL DISTRICT (M-1). The intent of the M-1 District is to provide space for certain commercial and a wide range of industrial uses and structures which are able to meet certain performance standards to protect nearby non-industrial uses from undesirable environmental conditions.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the M-1 District, except those uses which by reason of the emission of odor, excessive congestion, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare of the community.

- A. Assembly or fabrication of metal, rubber, cloth, plastic, stone, leather, wood, or similar raw materials.
- B. Auto service, assembly, and repair.
- C. Beverage bottling or processing.
- D. Blacksmith.
- E. Cement warehousing and mixing.
- F. Feed mixing.
- G. Fertilizer mixing and storage.
- H. Food processing, but not including packing or rendering plants.
- I. Grain storage elevators.
- J. Hatchery.
- K. Lumber yard.
- L. Moving company.
- M. Private parking lots.
- N. Produce warehouse.
- O. Publicly owned buildings.
- P. Transfer company.
- Q. Underground storage of flammable liquids, not to exceed 25,000 gallons and provided it is located at least 200 feet from any "R" District. Above ground storage of flammable fuels must be in accordance with current regulations of the State Fire Marshal and any applicable requirements of the City Fire Department.
- R. Warehouse.

2. Permitted Accessory Uses And Structures. The following accessory uses and structures shall be permitted:

- A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions.

- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - C. Essential services.
 - D. Day nursery or nursery schools provided by an employer for the benefit of employees working on the premises.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the M-1 District subject to provisions of this chapter and with the approval of the Board of Adjustment:
- A. Dairy products manufacture.
 - B. Explosive manufacturer.
 - C. Fertilizer manufacture.
 - D. Gas manufacture.
 - E. Manufacture or smelting of metal, rubber, plastic, stone, leather, or wood products from basic raw materials.
 - F. Meat packing plants.
 - G. Salvage or junk yard.
 - H. Stockyard.
 - I. Transmitters, towers, receiver equipment.
4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.17:
- A. Lot Area: The minimum lot area shall be 10,000 square feet.
 - B. Lot Width: The minimum lot width shall be 100 feet.
 - C. Front Yard: The minimum front yard shall be 30 feet.
 - D. Side Yard: No minimum side yard shall be required, except when adjoining an "R" District, in which case 10 feet shall be provided.
 - E. Rear Yard: No minimum rear yard is required except when adjoining an "R" District in which case a rear yard of 25 feet shall be provided.
 - F. Maximum Height: No building shall exceed a height of 2½ stories or 35 feet unless otherwise provided.
5. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Section 165.18.
6. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Section 165.19.
7. Signs. Signs are permitted subject to the provisions of Section 165.20.

165.17 ADDITIONAL AREA AND HEIGHT REGULATIONS. The regulations set forth in this section qualify, supplement or modify the area and height regulations set forth elsewhere in this chapter.

1. Lot Area and Width. Any lot of record at the time of passage of the Zoning Ordinance having less area or width than herein required may be used for a single-family dwelling where such uses are permitted as provided in this chapter; provided, however:
 - A. A lot of record at the time of passage of the Zoning Ordinance having a lot width of 50 feet or less shall maintain the required side yard on each side of the dwelling, but such yard shall not be less than 5 feet.
 - B. A lot of record at the time of passage of the Zoning Ordinance having a lot depth of 100 feet or less may have the required rear yard reduced to not less than 20 feet.
2. Yards.
 - A. Where thirty percent (30%) or more of the block front is improved with buildings, then no part of any new building shall project beyond a line joining the two adjacent corners of the buildings on either side thereof or, where there is a building on only one side, beyond a line projected from the corresponding adjacent corners of the two nearest buildings, except that no building shall be required to provide a front yard greater than that required for the district in which it is located. Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line.
 - B. In the case where the block front improved with buildings amounts to less than 30% of the total number of lots, including vacant lots, on one side of the street between two intersecting streets, the required minimum yards of the district shall be observed.
 - C. Buildings on through lots shall provide the required front yard on both streets.
 - D. The required side yard on the street side of a corner lot shall be not less than fifty percent (50%) of the front yard required on the lots to the rear of the corner lot, and no accessory building shall project beyond the required front yard on either street.
3. Use of Public Right-of-Way. No portion of the public road, street or alley right-of-way shall be used for display purposes or to provide any parking or loading space required by this chapter.
4. Temporary Building. Temporary buildings with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed within thirty (30) days after completion or abandonment of the construction work.

5. **Accessory Buildings.** Accessory buildings and uses customarily incidental to that of the main building may be erected or established as permitted, provided they comply with the following:
- A. No accessory building shall be located within two feet of any side or rear lot line, and shall not be located within five feet of any alley line.
 - B. Accessory buildings in any district shall not occupy more than thirty percent (30%) of the required yards.
 - C. No accessory building is permitted within the limits of the front yard.
 - D. No accessory building shall be used for dwelling purposes.
 - E. Any open unenclosed uncovered steps, ground level patios, eaves not more than two (2) feet in width, or concrete slab driveways may project into a required yard.
 - F. Accessory buildings attached to, or connected to the principal building by a breezeway shall be considered to be a part of the principal building and must meet the yard requirements of the principal building.
 - G. Satellite television reception discs shall be considered to be an accessory building and as such shall not be located within a front yard.
6. **Building Height.** The height regulations shall not apply to television and radio towers, church spires, belfries, monuments, farm buildings, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatus which may be erected to any height not in conflict with any other applicable regulations.

165.18 OFF STREET PARKING. There shall be provided at the time any new building or structure is erected off-street parking spaces in accordance with the requirements set forth herein:

- 1. **General Provisions:**
 - A. Except in the Central Commercial District (C-1) all buildings, structures, and uses of lands shall provide accessory parking as required under this section.
 - B. In nonresidential districts all yard areas may be used to satisfy the off-street parking requirements.
 - C. In residential districts off-street parking is allowed in all yards except the front yard extending from the front building line to the curb line of the street. However, that portion of a driveway extending into or through a front yard may be used to satisfy the off-street parking requirements.
- 2. **Off-Street Parking Requirements.** At the time of construction, alteration, moving in, enlargement of a structure or building, or change in the use of the land, off-street parking spaces shall be provided, constructed, and maintained for all uses as follows:
 - A. Residential or Multiple-Family: two spaces per dwelling unit.
 - B. Mobile Home Park: two spaces per mobile home.

- C. Hotel and Motel: one space per lodging unit.
- D. Nursing Homes, Retirement Centers, Rest Homes or Similar Uses: one space for every four patient beds.
- E. Places of Public Assembly (such as auditoriums, theaters, stadiums, funeral homes, churches, community hall, public buildings, etc.): the greater of one space for every four seats or one space per 500 square feet of gross floor area.
- F. Retail Sales and Service Uses (such as stores, restaurants, taverns, banks, professional offices, etc.): one space per 300 square feet of gross floor area.
- G. Manufacturing, Wholesaling, Warehousing, and Similar Uses: one space for every two employees in the largest working shift.
- H. Salvage Yards: one space per 1000 square feet of display or floor area.

165.19 OFF-STREET LOADING REQUIREMENTS. At the time of construction, alteration, or enlargement of a structure or building off-street loading areas shall be provided and maintained for all uses as follows:

1. One 1000-square-foot, off-street loading area shall be provided for each use, building, or structure of a size between 5,000 and 20,000 square feet.
2. For larger uses, buildings, and structures one 1000-square-foot, off-street loading area shall be provided for each additional 20,000 square feet or fraction thereof.
3. Where the off-street loading space borders a Residential District, it shall be set back five (5) feet and shall be effectively screen planted.

165.20 SIGNS.

1. Requirements. Billboards and signs that are located in conjunction with principal permitted uses are allowed subject to the following regulations:
 - A. Agricultural District (A-1):
 - (1) Church bulletin boards are permitted.
 - (2) Signs used by a farm operation to advertise seed and feed types.
 - B. All Residential Districts, except the Mobile Home District (R-3): Church bulletin boards are permitted.
 - C. Mobile Home District (R-3): One sign may be erected facing each public street on which the mobile home park borders. Such sign shall not have an area of more than 10 square feet.
 - D. Central Commercial District (C-1):
 - (1) Signs are permitted provided that they are either attached flush to the building (but extending out from the building not more

than 12 inches), painted on the building, hang from an attached canopy, or are attached to the building but extend over the sidewalk.

(2) All signs that extend over the sidewalk shall at a minimum have a clearance of at least 8 feet.

(3) One free-standing or post sign referring to a use or uses conducted on the premises may be erected in any yard abutting a public street; however, such sign shall not obstruct the public view.

(4) Signs extending from a building or structure shall not project outward greater than 4 feet.

E. Highway Commercial District (C-2), and General Industrial District (M-1):

(1) Outdoor advertising signs and billboards are permitted, provided that the yard and height requirements for a principal structure are met.

(2) One free-standing or post sign referring to a use or uses conducted on the premises may be erected in any yard abutting a public street; however, such sign shall not obstruct the public view.

2. Signs For Special Exception Uses. In all cases where a use is permitted as a special exception, signs will be allowed only through Board of Adjustment approval.

3. Informational Signs. Informational and directional signs will be permitted in all districts.

4. Real Estate Signs. Real estate signs advertising for sale, rental, or lease only, the premises, lot or tracts on which they are located will be allowed in all districts. The area of such sign shall not exceed 50 square feet in area in all Nonresidential Districts and 5 square feet in area in any Residential District.

5. Intermittent Flashing Type Signs. No intermittent flashing type signs are permitted. No moving, flashing, rotating, illuminated signs or colored lights, that may be confused with traffic lights are permitted.

165.21 SPECIAL EXCEPTION USES. Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this chapter. In granting a special exception use permit, the Board of Adjustment may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special exception use permit.

1. Application For Special Exception Use Permit. An application for a special exception use permit may be initiated by a property owner or an authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purposes. The application shall be accompanied by a site plan and other such plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposes use and proposed

modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the City Council.

2. Procedure. A special exception permit shall not be granted by the Board of Adjustment unless and until the following procedures have been fulfilled:

A. The Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given to the public hearing as required by State statute by publication in a newspaper of general circulation in the City. If feasible, notice of the public hearing will be mailed to property owners within 200 feet of the exception request.

B. The Board of Adjustment shall determine that it is empowered under this chapter to grant the special exception as described in the application, and that granting of the special exception will not adversely affect the public interest pursuant to testimony presented at the public hearing.

C. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter.

D. The concurring vote of three (3) members of the Board of Adjustment grants a special exception use permit. No order of the Board of Adjustment granting a special exception use permit shall be valid for a period longer than six (6) months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six-month period and construction is commenced.

E. The City Council may, after a decision of the Board of Adjustment is made, vote to delay the implementation of such decision for a period of thirty (30) days. The Council may not overturn a decision of the Board of Adjustment. During the thirty-day period the Board of Adjustment may or may not reconsider its decision.

3. Standards. No special exception use permit shall be granted by the Board of Adjustment unless such Board shall find:

A. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.

B. The special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, or substantially diminish and impair property values within the neighborhood.

C. The establishment of the special exception use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.

D. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

- E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in handling of any such material.
- G. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- H. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.
- I. The use shall not involve any malodorous gas or matter which is discernible on any adjoining property.
- J. The use shall not involve any pollution of the air by fly-ash, dust, vapors, or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- K. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road or highway.
- L. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are initiated to limit traffic hazards and congestion.
- M. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- N. The use will not be in major conflict with the Comprehensive City Plan.

165.22 NONCONFORMING USES. Within the various districts established by this chapter or amendments that may later be adopted there exist structures and uses of land and structures which were lawful prior to the adoption of the Zoning Ordinance but which would be prohibited, regulated, or restricted under the provisions of this chapter. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

1. **Nonconforming Lots Of Record In Any Residential District.** A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the Zoning Ordinance even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in that district. The yard dimensions and other bulk regulations for the district in which such lot is located shall apply. Variance of area, width, and yard requirements shall be obtained through action of the Board of Adjustment. Two or more nonconforming lots, or portions thereof, that are contiguous in frontage and under the same ownership shall be considered to be an unsubdivided parcel for purposes of this chapter. No portion of said parcel shall be sold and then used which does not meet lot width and area requirements established by this chapter, nor shall

any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

2. Nonconforming Uses Or Structures In Any Residential District. Existing structures or premises devoted to a use not permitted by this chapter in the district which such structure or premise is located shall not be enlarged, extended, reconstructed, substituted, or structurally altered, except when required by law, unless:

A. The use is changed to a use permitted in the district in which such structure or premises is located.

B. A nonconforming use of a structure may be changed to another nonconforming use of the same or more restrictive classification, provided no structural alterations are made.

C. If a nonconforming use of any structure or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

3. Nonconforming Uses Or Structures In Any District Other Than A Residential District. The regulations described in subsection 2 of this section shall apply to nonconforming uses in a commercial, industrial, or agricultural district, subject to the following exception: Nonconforming structures may be structurally altered or enlarged in conformity with the lot area, lot width, yard, and height requirements of the district in which such use is located. Such construction shall be limited to buildings on a lot of record (or a combination of lots of record in the same ownership) prior to the effective date of the Zoning Ordinance. The structural alteration or enlargement of structures shall not change the nature of the nonconforming use that existed prior to the effective date of the Zoning Ordinance.

4. Permitted Structures and Use of Land and Structures Made Nonconforming By the Requirements of the Bulk Regulations. A permitted structure or use that fails to meet the established bulk regulations of the district in which it is located may be structurally altered or extended provided that the alteration or extension is in compliance with the bulk regulations of the district in which it is located. Any variance must be obtained through action of the Board of Adjustment.

5. Replacing Damaged Buildings. Any nonconforming building or structure damaged more than fifty percent (50%) of its replacement value (inclusive of the foundation) at the time of damage by fire, flood, explosion, war, riot, or act of God shall not be restored or reconstructed and used as before such happening, but if less than 50% of the structure is damaged, it may be restored, reconstructed, or used as before provided that reconstruction be started within one year of such happening.

6. Uses Under Special Exception Provisions. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a conforming use. Any additions shall be with Board of Adjustment approval.

165.23 ADMINISTRATION.

1. Administrator. The Council shall appoint a Zoning Administrative Officer, and it shall be the duty of said officer to enforce this chapter. Such officer may be a person holding other appointive office in the City or in another governmental agency.

2. Zoning Compliance Permits. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this chapter. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Administrative Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this chapter. Nothing in this part shall prevent the continuance of a nonconforming use as herein authorized, unless a discontinuance is necessary for the safety of life or property.

3. Application For Compliance Permit. Compliance permits shall be obtained from the Zoning Administrative Officer before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Permits shall be kept on file in the office of the Zoning Administrative Officer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Compliance permits shall be issued to applicants within ten (10) days after application is made. Permits will be valid for 180 days. If construction is not completed within that time period, a new permit must be obtained. Failure to timely complete construction may be grounds for denial of an additional permit.

4. Plats. Each application for a compliance permit shall be accompanied by either a dimensioned drawing or plat drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and such other information as may be necessary to provide for the enforcement of this chapter.

5. Construction and Use to be as Provided in Application, Plans and Permit. Compliance permits issued on the basis of plans and applications, approved by the Zoning Administrative Officer, authorize only that use, arrangement and construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter.

6. Fees. Before receiving a compliance permit, the owner or agent shall pay to the City the permit fee as provided by resolution of the Council.

7. Special Exceptions. A compliance permit for a special exception may be issued by the Administrative Officer upon the order of the Board of Adjustment.

165.24 VIOLATION AND PENALTY. The violation of any of the provisions of this chapter shall constitute a municipal infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be subject to a citation and penalty as established in Chapter 3 of this Code of Ordinances. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure of land is used in violation of this chapter, the City Attorney, in addition to other remedies may institute any proper action or proceed in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

165.25 BOARD OF ADJUSTMENT.

1. Confirmation of Existing Board. The members of the existing Board of Adjustment are hereby confirmed to continue their appointed terms of office. Future members of the Board of Adjustment shall be appointed by the City Council for a term of five (5) years. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after a public hearing. Vacancies shall be filled by the City Council for the unexpired term of the resigning member.

2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson, the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Administrative Officer. The presence of three (3) members shall constitute a quorum.

3. Hearings, Appeals, Notice. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the City of Rockwell City affected by a decision of the Administrative Officer. Such appeals should be taken within a reasonable time, not to exceed thirty (30) days, by filing with the Administrative Officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeals, give public notices thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent or attorney. A fee to be determined by resolution of the City Council shall be paid to the Administrative Officer at the time the notice is filed.

4. Stay On Proceedings. An appeal stays all proceedings in furtherance of the action appealed, unless the Administrative Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with such officer, that by reason of facts stated in the certificate, a stay would, in the opinion of such officer, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and upon due cause shown.

5. Powers and Duties. The Board of Adjustment shall have the following powers and duties:

A. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this chapter.

B. Special Exceptions. To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter.

C. Variances. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

(1) A written application for a variance is submitted demonstrating: (i) that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; (ii) that 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; (iii) that the special conditions and circumstances do not result from the actions of the applicant; (iv) that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(2) A public hearing shall be held, with the notice of such hearing being provided according to state statute. If feasible, notice of the public hearing shall be mailed to property owners within 200 feet of the proposed variance.

(3) The Board of Adjustment shall further 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.

(4) 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 will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(5) The application for a variance shall be accompanied by a fee to be determined by resolution of the City Council.

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.

6. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made and to that end shall

have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

7. Appeals From the Board of Adjustment. Any person, board, taxpayer, department, or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by Chapter 414, *Code of Iowa*. The City Council may vote to delay a decision of the Board of Adjustment for a thirty-day period, but such vote may not overrule a decision of the Board of Adjustment. During the thirty-day delay the Board of Adjustment may or may not review its previous decision.

165.26 CHANGES AND AMENDMENTS. This chapter and the districts created herein may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by, or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning Commission shall have thirty (30) days in which to submit its report to the City Council. If the Commission fails to submit a report within the thirty-day period, it shall be deemed to have approved the proposed amendment.

1. Public Hearing. A public hearing shall be held by the City Council before adoption of any proposed amendment to this chapter. A notice of such public hearing shall be published according to State statute (414.4). Such notice shall include the time and place for the public hearing. In the case of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change or repeal, or by the owners of 20% or more of the property which is indicated within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective unless it receives the favorable vote of at least three fourths (3/4) of all the members of the City Council.

2. Application for Change in Zoning District Boundaries. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning map. Such application shall be filed with the Administrative Officer accompanied by a fee as determined by resolution of the City Council and shall contain the following information. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

- A. The legal description and local address of the property.
- B. The present zoning classification and the zoning classification requested for the property.
- C. The existing use and proposed use of the property.
- D. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
- E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

- F. A plat showing existing and proposed locations, dimensions and use of the applicant’s property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.
3. Upon receipt of the application by the Administrative Officer a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:
- A. Whether or not the current district classification of the property to be rezoned is valid.
 - B. Whether there is a need for additional land zoned for the purpose requested.
 - C. Whether the proposed change is consistent with the current land use plan, considering such factors as: (i) whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area; and (ii) whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
 - D. Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.
4. The Commission shall hold a public hearing (the notice of which shall be according to State statute) and report its determinations and recommendations to the Council within thirty days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. If feasible, notice of the public hearing will be mailed to all property owners within 200 feet of the proposal.

| EDITOR’S NOTE | | | |
|--|-------------------|---------------|--------------|
| The following ordinances have been adopted amending the Official Zoning Map described in Section 165.05 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect. | | | |
| ORDINANCE NO. | DATE ADOPTED | ORDINANCE NO. | DATE ADOPTED |
| 319 | July 7, 1998 | | |
| 326 | August 6, 2001 | | |
| 328 | August 19, 2002 | | |
| 329 | September 3, 2002 | | |
| 334 | April 5, 2004 | | |
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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 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.

166.02 POLICY. It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the City to provide for the orderly, efficient and economical development of the City. And further:

1. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
2. Regulations to Supplement and Facilitate. It is intended that these subdivision regulations shall supplement and facilitate the enforcement of provisions and standards, ordinances or regulations of the City.

166.03 APPLICATION AND JURISDICTION. Every owner (or agent) of any tract or parcel of land lying within the City or, pursuant to Section 354.9 of the *Code of Iowa*, within two (2) miles of the corporate limits of the City who has subdivided or shall hereafter subdivide the same into three (3) or more parts for the purpose of laying out an addition, subdivision, building lot or lots, or acreage lots, shall cause plats of such area to be made in

the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

166.04 INTERPRETATION. In their interpretation or application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Specifically:

1. Relationship to Other Public Provisions. These regulations are not intended to interfere with or to abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
2. Relationship to Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern.

166.05 ACTION UNDER PRIOR PROVISIONS. These regulations do not abate any action now pending under or by virtue of prior existing subdivision regulations. Nor do they discontinue, abate, modify or alter any penalty accrued or about to accrue or affect the liability of any person or waive any right of the City under any section or provision existing at the time of adoption of these regulations. Nor do they vacate or annul any rights obtained by any person by lawful action of the City except as expressed in these regulations.

166.06 DEFINITIONS. For use in this chapter, the following terms or words are defined.

1. "Alley" means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
2. "Applicant" means the owner of land to be subdivided or said owner's representative.
3. "Block" means a tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or corporate boundaries.
4. "Bond" means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council.
5. "Building" means any structure built for support, shelter or enclosure of persons, animals, chattels or moveable property of any kind, and includes any structure.
6. "Central water system" means a private water system established by the developer to serve a new subdivision or resubdivision. It includes water treatment and distribution facilities.
7. "Central sewage system" means a private sewer system including collection and treatment facilities established by the developer to serve a new subdivision or resubdivision.

8. "City Engineer" means the person designated by the Council to furnish engineering assistance for the administration of these regulations.
9. "Commission" means the Planning and Zoning Commission of the City.
10. "Cul-de-sac" means a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.
11. "Developer" means the owner of land proposed to be subdivided (or said owner's representative).
12. "Easement" means an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said person's property.
13. "Frontage" means that portion of a lot abutting on a street or way and complying with the setback and front yard requirements as they may exist, but it is not considered as the side of a corner lot.
14. "Individual sewage disposal system" means a septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.
15. "Local board of health" means a County, City or District Board of Health.
16. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.
17. "Municipal arterial streets" means those streets which connect principal traffic generating areas or connect such areas with other street systems.
18. "Municipal collector streets" mean those streets that collect traffic from municipal service streets and connect to other street systems.
19. "Municipal service streets" means those streets that primarily provide access to property.
20. "Owner" means any person having legal title to or sufficient proprietary interest in the land to be sought to be subdivided under these regulations.
21. "Plat" means a map, drawing or chart on which the developer's plan of the subdivision of land is presented and which the developer submits for approval and intends, in final form, to record.
22. "Public improvement" means any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established.
23. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a

public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

24. “Roadway” means that portion of the street available for vehicular traffic and where curbs are laid, the portion from back to back of curbs.

25. “Street” means and includes any public way, highway, street, avenue, boulevard, parkway or other public thoroughfare, and each of such words includes every other of them, and also includes the entire width between property lines.

26. “Subdivider” means the person undertaking the subdivision or resubdivision of a tract or parcel of land.

27. “Subdivision” means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

28. “Surveyor” means a land surveyor licensed and registered under the provisions of Chapter 542B of the *Code of Iowa*.

166.07 PROCEDURE. Before seeking tentative approval of a proposed subdivision by the Council, the subdivider shall submit a preliminary plat in accordance with the requirements of Section 166.09 and install the required improvements or provide a performance bond.

166.08 PRE-SUBMISSION CONSULTATIONS. Prior to the submission of the preliminary plat of any subdivision, the subdivider is encouraged to meet with the City Engineer and other City officials responsible for the administration of these regulations to be advised of the procedural steps, design standards, required improvements and platting requirements. During such meetings, no commitments shall be made which will be binding upon the City.

166.09 REQUIREMENTS OF PRELIMINARY PLAT. Every proposed subdivision shall be submitted for tentative approval in the form of a preliminary plat prior to the submission of a final record plat. The purpose of the preliminary plat and accompanying material is to provide all facts needed for the Council to determine whether the proposed subdivision is satisfactory from the standpoint of the public interest. The following graphic and descriptive material is required to be provided on the preliminary plat and on the accompanying material.

1. Contents of Preliminary Plat. The preliminary plat shall be prepared by a registered land surveyor at a convenient scale of not more than one inch equals one hundred feet (1" = 100'), may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one sheet is used. The following information shall be shown on the preliminary plat:

A. Title, scale, north point and date.

B. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners. Exterior boundaries are to be indicated with a solid heavy line.

- C. 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, fire hydrants and street signs.
 - D. Proposed layout of blocks and lots, showing dimensions, radii, chords and the square foot areas of lots that are not rectangular, and the lot and block numbers in numerical order.
 - E. Building setback or front yard lines.
 - F. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
 - G. Present and proposed easements, showing locations, widths, purposes and limitations.
 - H. Location and names of adjoining parcels of unsubdivided and subdivided land.
 - I. Boundaries of the highest known flood of record affecting the subdivision and the source of information.
 - J. If the proposed subdivision borders on a lake or stream, the distances and bearings of meander lines established not less than twenty (20) feet back from the mean high water mark of the lake or stream.
 - K. Existing blocks, lots and buildings.
 - L. 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. If the subdivision is within one mile of public sewer or water or both, notation shall be made of the direction and distance to such facilities.
 - M. Proposed name of the subdivision.
 - N. Names and addresses of the owner, subdivider, builder and surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat.
 - O. Official legal description of the property being platted.
 - P. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater.
 - Q. Existing and proposed zoning of the proposed subdivision and adjoining property.
 - R. Location of all proposed monuments.
2. Information to Be Provided in Accompanying Material. The following information shall accompany a plat when filing:
- A. A complete listing of all existing covenants which apply to the land to be subdivided, and a complete listing of all covenants which are proposed by the developer to apply to the subdivided land.

- B. A table of the following information:
- (1) Total acreage of the subdivision.
 - (2) Total number of lots.
 - (3) Minimum, average and maximum lot area.
 - (4) Acreage of public lands to be dedicated or reserved other than streets.
- C. If any portion of the subdivision is to have access on a State or County jurisdictional street, a written and signed statement acknowledging and permitting the access by the duly authorized official of the appropriate jurisdiction.
- D. Specifications and engineering construction drawings including profiles, cross-sections and details of all public improvements. Elevations shall be referred to mean sea level as exhibited in standard U.S. Geological Survey Maps. Specifications and references shall meet those required by the City's construction and specification standards, including a site grading plan for the entire subdivision.

166.10 SUBMISSION OF PRELIMINARY PLAT. The subdivider shall prepare a preliminary plat in accordance with the provisions of Section 166.09 and shall file with the Clerk an application in triplicate for the tentative approval of the plat. The application shall:

1. Forms and Fees. Be made on forms available from the Clerk together with a fee of ten dollars (\$10.00) per lot.
2. Number of Plats. Be accompanied by a minimum of ten (10) copies of the preliminary plat.
3. Time of Submission. Be presented to the Clerk at least four (4) weeks prior to the meeting of the Commission.

166.11 REFERRAL OF PRELIMINARY PLAT. The Clerk shall immediately refer two (2) copies of the preliminary plat to the City Engineer and seven (7) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the preliminary plat to the County Board of Supervisors.

166.12 REVIEW OF PRELIMINARY PLAT. The preliminary plat shall be reviewed by the Commission to determine its conformity with these regulations and all other ordinances and regulations in force affecting subdivisions. Copies of the preliminary plat may be transmitted to other City or school officials, as the Commission deems necessary, for their recommendations concerning matters within their jurisdiction. Their recommendations, along with those of the City Engineer, shall be transmitted to the Commission within three (3) weeks after the date the plat is filed. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made.

166.13 ACTION BY THE COMMISSION. The Commission, as soon as possible, but within thirty (30) days after receiving the preliminary plat, shall pass upon the preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time period, not to exceed an additional sixty (60) days. It

shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. **Reasons for Changes or Disapproval.** In the event that substantial changes or modifications are made by the Commission or the Commission recommends disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. **Tentative Approval.** If the Commission recommends approval, it shall express its approval as “Tentative Approval” and state the conditions of such approval, if any.
3. **Documenting Approval.** The action of the Commission shall be documented on seven (7) copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one copy shall be retained by the Commission, and five (5) copies shall be referred to the Council.

166.14 ACTION BY COUNCIL. Within thirty (30) days of its receipt of the preliminary plat, the Council shall, by resolution, tentatively approve or disapprove the plat. If the preliminary plat is disapproved, objections to it shall be returned to the Commission for further review and the Clerk shall notify the subdivider of such action. If approved, the Clerk shall affix his or her signature to five (5) copies of the preliminary plat with the notation of the date the preliminary plat received the Council’s tentative approval. One copy shall be returned to the Commission and three (3) copies shall be returned to the subdivider. The “Tentative 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.

166.15 EFFECTIVE PERIOD OF TENTATIVE APPROVAL. The tentative approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval must have been obtained. Any plat not receiving final approval within this period of time shall be void, and the subdivider shall be required to resubmit a new plat for tentative approval subject to all new zoning restrictions and subdivision regulations.

166.16 COMPLETION OF IMPROVEMENTS. Before the Council will approve the final plat, all of the required improvements shall be constructed and either accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

166.17 PERFORMANCE BOND. The completion requirement for improvements may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one year from final acceptance of the plat. However, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed. Such performance bond shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution. Upon recommendation of the Commission, the Council may extend the completion date set forth in the bond for a maximum period of one additional year.

166.18 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.

166.19 REQUIREMENTS OF THE FINAL PLAT. The following graphic and descriptive material is required to be provided on the final plat and in the accompanying material.

1. Contents of the Final Plat. Every plat of a subdivision offered for record shall conform to all of the following provisions where applicable:
 - A. The plat shall be a permanent copy or a photographic print made on a stable plastic film. Exact copies of the plat to be recorded shall be provided to and filed with the County Recorder, Assessor and Auditor. The original plat drawing shall remain the property of the registered land surveyor.
 - B. The size of each sheet showing any portion of the subdivided lands shall not be greater than 18 inches by 24 inches or less than 8½ by 11 inches.
 - C. Whenever more than one sheet is used to accurately portray the lands subdivided, each sheet shall display the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the other sheets adjoin. An index sheet shall be provided to show the relationship between the sheets.
 - D. A maximum scale of one hundred feet to one inch (100' = 1") shall be used. The scale used shall be clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.
 - E. Subdivisions shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.
 - F. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plat, as well as the scale and date.
 - G. All monuments to be of record shall be adequately described and clearly identified on the plat. When additional monuments are to be established subsequent to the recording of the plat, the location of the additional monuments shall be shown on the plat.
 - H. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
 - I. All distances shall be shown in feet to the nearest one-hundredth of a foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.
 - J. The course of every boundary line shown on the plat shall be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line having a

shown course. All bearings and angles shown shall be given to at least the nearest minute of arc.

K. Curve data shall be stated in terms of radius, central angle and tangent, or length of curve. In all cases, the curve data must be shown for the line affected.

L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

M. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as "more or less," if variable. In all cases, the true boundary shall be clearly indicated on the plat.

N. All interior excepted parcels shall be clearly indicated and labeled, "not a part of this plat."

O. All adjoining properties shall be identified and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Re-subdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

P. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

Q. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

R. The purpose of all areas dedicated to the public must be clearly indicated on the plat.

S. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number or seal.

T. Street names and clear designation of public alleys.

U. Block and lot numbers.

V. Name and address of owner and subdivider.

W. Accurate dimensions for any property to be dedicated or reserved for public use.

- X. The plat shall be signed and acknowledged by the subdivision land owner and his or her spouse.
- Y. A sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.
2. Information to be Provided in Accompanying Material. The following material shall be submitted with the final plat:
- A. A correct legal description of the subdivision land;
- B. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;
- C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
- D. 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.
- E. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.
- F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
- G. A certificate by the City Engineer that all required improvements and installations have been completed according to the construction plans submitted to the City prior to construction or with the final plat if not constructed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.
- H. The encumbrance bond, if any.

166.20 SUBMISSION OF FINAL PLAT. The subdivider shall prepare a final plat in accordance with the provisions of Section 166.19 and shall file with the Clerk an application in triplicate for the final approval of the plat. The application shall:

1. Forms and Fees. Be made on forms available from the Clerk together with a fee of ten dollars (\$10.00) per lot.
2. Number of Copies of Plat. Be accompanied by a minimum of ten (10) copies of the final plat.
3. Offers of Dedication. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities and easements, in a form approved by the City Attorney.
4. Time of Submission. Be presented to the Clerk at least four (4) weeks prior to the regular meeting of the Council.

166.21 REFERRAL OF FINAL PLAT. The Clerk shall immediately refer two (2) copies of the final plat to the City Engineer and seven (7) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the final plat to the County Board of Supervisors.

166.22 ACTION BY THE COMMISSION. The Commission shall, upon receiving the final plat, as soon as possible, but within thirty (30) days of receiving the final plat, consider the final plat, and if the same is recommended for approval, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Commission. If the Commission recommends approval of the final plat, such approval and the date thereof shall be noted on the plat over the signature of both the Chairperson and Secretary of the Commission and the plat and five (5) copies shall be transmitted to the Council, and one copy shall be returned to the subdivider.

166.23 ACTION BY THE COUNCIL. Upon receipt of the certification by the Commission, the Council shall, within sixty (60) days, either approve or disapprove the final plat.

1. Disapproval of Plat. 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. Acceptance of Plat. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. Final Approval and Recording of Plat. The passage of a resolution by the Council accepting 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.

166.24 RESUBDIVISION OF LAND. The following requirements shall govern the resubdividing of land.

1. Procedure for Resubdividing. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such

map, or area reserved for public use indicated on the map, or any lot line, or if it affects any map or plan legally established prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the same procedure, rules and regulations as for a subdivision.

2. Acreage Lots. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission and Council may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

166.25 COMPLETION OF IMPROVEMENTS. Before the final plat is approved by the Council, all applicants shall be required to complete, in accordance with the Council's decision and to the satisfaction of the City Engineer, all the street, sanitary sewer, water and other improvements as required in these regulations, specified in the final plat, and as approved by the Council, and to dedicate the same to the City, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

166.26 PERFORMANCE BOND. The Council in its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to approving the final plat, and that, as an alternative, the applicant post a bond in accordance with Section 166.17 at the time of application for final plat approval in an amount estimated by the Council as sufficient to secure to the City the satisfactory construction, installation and dedication of the incompleting portion of required improvements. In addition:

1. Approved by City Attorney. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in these regulations.
2. Completion Period. The period within which required improvements must be completed shall be specified by the Council in the resolution approving the final plat shall be incorporated in the bond, and shall not exceed one year from date of final approval.
3. Extension of Completion Period. The performance bond shall be approved by the Council as to the amount and surety and conditions satisfactory to the Council. The Commission may, upon proof of difficulty, recommend to the Council an extension of the completion date set forth in such bond for a maximum period of one additional year. The Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond.
4. Temporary Improvements. The applicant shall build and pay for all costs of temporary improvements required by the Council and shall maintain same for the period specified by the Council. Prior to the construction of any temporary facility or improvement, the developer shall file with the City a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.
5. Failure to Complete Improvement. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Council in the resolution approving the plat, the approval shall

be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

166.27 INSPECTION OF IMPROVEMENTS. The Council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The applicant shall pay to the City an inspection fee equal to the actual cost of inspection. These fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall furnish the Council with a construction schedule prior to the commencement of any and all construction, and notify the City not less than twenty-four (24) hours in advance of readiness for required inspections.

166.28 RELEASE OR REDUCTION OF PERFORMANCE BOND. The performance bond may not be released or reduced except as follows:

1. Certificate of Satisfactory Completion. The Council will not accept dedication of required improvements, nor release or reduce a performance bond, until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer has certified to the City through submission of detailed "as built" plans of the subdivision indicating location, dimensions, materials and other information required by the City, that all public improvements are in accordance with construction plans for the subdivision.
2. Reduction of Performance Bond. A performance bond may be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat.

166.29 MAINTENANCE OF IMPROVEMENTS. Improvements shall be maintained and a maintenance bond provided as follows:

1. Maintenance of Improvements Before Acceptance. The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required, until acceptance of said improvements by the Council. If there are any certificates of occupancy on a street not dedicated to the City, the City may, on twelve (12) hours' notice, plow the street or effect emergency repairs and charge same to applicant.
2. Maintenance Bond. The applicant shall be required to file a maintenance bond with the Council, prior to dedication, in an amount considered adequate by the Council and in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements for a period of two (2) years after the date of their acceptance by the Council and dedication of same to the Council.

166.30 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS. Required improvements may be deferred or waived as follows:

1. Waiver of Required Improvements. The Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as in its judgment are not requisite in the interests of the public

health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

2. Deferral of Required Improvements. Whenever it is deemed necessary by the Council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant shall pay his or her share of the costs of the future improvements to the City prior to the approval of the final plat, or the applicant may post a bond insuring completion of said improvements upon demand of the City.

166.31 ISSUANCE OF CERTIFICATES OF OCCUPANCY. No certificate of occupancy shall be issued until the extent of street improvement is adequate for vehicular access by the prospective occupant and by police and fire equipment.

166.32 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by these regulations in accordance with the specifications and under the supervision of the Council and to its satisfaction.

166.33 DESIGN STANDARDS ARE MINIMUM. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the subdivision, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

166.34 CONFORMANCE TO APPLICABLE RULES AND REGULATIONS. In addition to the requirements established herein, all subdividers shall comply with the following laws, rules and regulations.

1. State Statutes. All applicable statutes of the State of Iowa.
2. City Plans. Any comprehensive plan, public utilities plan and capital improvements program of the City.
3. State Agency Rules. The requirements and rules of State agencies such as the State Department of Natural Resources, State Department of Health and the State Department of Transportation, where applicable.
4. County Standards and Regulations. The standards and regulations of the County Board of Supervisors and County commissions, boards and agencies where applicable.
5. City Standards and Regulations. The standards and regulations adopted by the Council, boards, commissions and agencies of the City.
6. Plat Approval and Conformity. Plat approval may be withheld if a subdivision is not in conformance with the above guides or policy and purposes of these regulations.

166.35 SUBDIVISION NAME. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Council, after consultation with the Commission, shall have the final authority to designate the name of the subdivision which shall be determined at preliminary plat approval.

166.36 MONUMENTATION. Monuments shall be in conformance with the following requirements:

1. Establishment of Permanent Control Monuments. Prior to the offering of the plat of any subdivision for record, the surveyor shall confirm the prior establishment of permanent control monuments at each controlling corner on the boundaries of the parcel or tract of land being subdivided. If no permanent control monuments exist, the surveyor shall establish at least two (2) permanent control monuments for each block created, or if the area subdivided into lots is less than a block in size, at least two (2) permanent control monuments shall be established for the subdivision. Permanent control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of the monument.
2. Other Monuments of Record. Other monuments established prior to the recording of the plat of the subdivision and described on the plat shall be considered monuments of record and shall be given the same weight as original permanent control monuments if the monuments remain undisturbed in their original positions. The additional monuments shall be constructed and embedded according to the provisions for permanent control monuments according to the provisions for permanent control monuments prescribed in subsection 1 of this section.
3. Establishment and Recording of Other Monuments. Monuments other than the permanent control monuments required in subsection 1 of this section shall not be required to be established before the recording of the plat or the conveyancing of lands by reference to the plat if the registered land surveyor includes in the surveyor's statement on the plat that the additional monuments required by these regulations shall be established before a specified future date.
4. Additional Monuments Required. Additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in subsection 1 of this section, and shall be set in all of the following locations whether set prior to the recording of the plat, or subsequent to such recording:
 - A. At every corner and angle point of every lot, block or parcel of land created.
 - B. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad or other way.
 - C. At every point of curve, tangency, reversed curve or compounded curve on every right-of-way line established.
5. Placement of Monument. When the placement of a monument required by this chapter at the prescribed location is impractical, it is permissible to establish a reference monument in close proximity to the prescribed location. If the reference monument is established prior to the recording of the plat and its location properly shown on the plat, the reference monument shall have the same status as other monuments of record. Where any point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the

surveyor. The existing monument shall be considered a monument of record when properly shown and described on the recorded plat.

166.37 CHARACTER OF THE LAND. Land which the City finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision or its surrounding areas or both, shall not be subdivided or developed unless adequate methods are formulated by the subdivider and approved by the Council, upon recommendation of the Commission, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

166.38 LOTS. 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.

1. Lot Size. Minimum lot dimensions and sizes shall conform to the requirements of the zoning regulations where applicable, but in no case shall a lot contain less than five thousand (5,000) square feet of area or be less than fifty (50) feet wide measured at the building line.

A. Residential lots where not served by public sewer shall be of sufficient size, as determined by the City and subject to any applicable State or County rules or regulations, to accommodate the type of private sewage disposal system proposed by the developer.

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 twenty (20) feet of width to permit appropriate building setback from and orientation to both streets.

2. Street Access. Each lot shall be provided with satisfactory access to a public street.

3. Double Frontage and Reverse Frontage Lots. 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 ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

4. Side Lot Lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

5. Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

6. **Building Lines.** Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of each subdivision.

166.39 BLOCKS. Blocks shall conform to the following requirements:

1. **Provision for Lots.** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions shall be permitted in blocks adjacent to arterial streets, railroads or waterways.
2. **Design Considerations.** The lengths, widths and shapes of blocks shall be determined with due regard to:
 - A. Provision for adequate building sites.
 - B. Zoning requirements where applicable.
 - C. Topography.
 - D. Needs for convenient access, circulation, control and safety of street traffic.
3. **Block Lengths.** The lengths of blocks shall be appropriate to the type of development contemplated, but block lengths in residential developments shall not exceed two thousand (2,000) feet, or be less than five hundred (500) feet. Wherever practicable, blocks along arterials and collector streets shall not be less than one thousand (1,000) feet in length.
4. **Easement Reservation.** In blocks over eight hundred (800) feet in length, the Council may require the reservation of an easement to accommodate utilities, drainage facilities or pedestrian traffic.
5. **Pedestrian Crosswalks.** Pedestrian crosswalks, not less than ten (10) feet wide, may be required by the Council through the center of blocks more than eight hundred (800) feet in length. Pedestrian crosswalks shall not exceed twelve percent (12%) in grade unless steps of an approved design are to be constructed.

166.40 STREETS – GENERAL REQUIREMENTS. Streets shall conform with the following general requirements:

1. **Frontage on Improved Roads.** No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street.
2. **Grading and Improvement Plan.** Streets shall be graded and improved and conform to the City construction standards and specifications and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted.
3. **Topography and Arrangement.** Streets shall be conformance with the following requirements related to topography and arrangement:
 - A. Streets shall be related appropriately to be topography. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and

curves shall be avoided. Specific standards are contained in the design standards of these regulations.

B. All streets shall be properly integrated with the existing and proposed system of streets and dedicated right-of-way.

C. All arterials shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

D. Municipal service streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

F. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

4. Access to State or County Jurisdictional Roads. Whenever any part of a subdivision is designed with access to a road under State or County jurisdiction, permission for access to such roads shall be obtained from the appropriate jurisdiction and such access shall be designed according to the standards of the appropriate jurisdiction.

5. Access to Arterial Streets. Where a subdivision borders on or contains an existing or proposed arterial street, the Council may require that lot access to such streets be limited by one of the following means:

A. Lots shall be designed so as to back onto the primary arterial and front onto a parallel municipal service street; no access shall be provided from the arterial street, and screening shall be provided in a strip of land along the rear property line of such lots.

B. A series of cul-de-sacs entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.

C. A frontage or service road, separated from the primary arterial by a planting or grass strip and having access thereto at suitable points.

6. Street Names. Streets that are in alignment with others already existing shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council and Commission.

7. Street Name Signs. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Council. The City shall install all street name signs. The applicant shall deposit with the City at the time of final subdivision approval the estimated cost of installation of each street sign required by the Council.

8. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the Council.

9. Construction of Streets and Dead-end Streets. Streets and dead-end streets shall be in conformance with the following requirements:

A. Construction of Streets. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, and for efficient provision of utilities. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T or L shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

B. Permanent Dead-end Streets. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Council for access to adjoining property, its terminus shall normally not be nearer to such boundary than one hundred fifty (150) feet. However, the Council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with City construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

166.41 STREETS – DESIGN STANDARDS. The following design standards shall apply to the design of streets:

1. General. In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required:

A. A tangent of at least one hundred (100) feet long shall be introduced between reverse curves on municipal arterial and municipal collector streets, and seventy-five (75) feet on municipal service streets.

B. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than one hundred (100)

feet for municipal service and municipal collector streets, and of such greater radii as the Council shall determine for special cases.

C. Minimum Roadway and Right-of-way Standards:

(1) Municipal arterial streets shall have a right-of-way width of not less than eighty (80) feet and a roadway width of not less than forty-four (44) feet.

(2) Municipal collector streets shall have a right-of-way width of not less than sixty (60) feet and a roadway width of not less than thirty-six (36) feet.

(3) Municipal service streets shall have a right-of-way width of not less than fifty (50) feet and a roadway width of not less than twenty-six (26) feet.

(4) Frontage streets shall have a right-of-way width of not less than forty (40) feet and a roadway width of not less than twenty-six (26) feet.

(5) Cul-de-sacs shall meet all the requirements for a municipal service street and, in addition, shall provide a turnaround with a right-of-way radius of fifty (50) feet and a roadway radius of forty (40) feet. No cul-de-sac shall exceed five hundred (500) feet in length.

D. Street grades, wherever feasible, shall not exceed the following:

(1) Municipal arterial streets - six percent (6%);

(2) Municipal collector streets - eight percent (8%);

(3) Municipal service streets - ten percent (10%);

(4) Frontage streets - six percent (6%).

E. All changes in street grade shall be connected by vertical curves of minimum length in feet equal to twenty (20) times the algebraic difference in percents of grade.

F. No street grade shall be less than one-half ($\frac{1}{2}$) of one percent.

2. Street Surfacing and Improvements. After sewer, water and other utilities to be located underground within the right-of-way have been installed by the applicant, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be of Portland concrete cement. Adequate provisions shall be made for culverts, drains and bridges. All road pavement, shoulders, drainage improvements and structure, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the City, and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

3. Excess Right-of-way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three (3) to one.

4. Railroads and Limited Access Highways. Railroad rights-of-way and limited access highways were so located as to affect the subdivision of adjoining lands shall be treated as follows:

A. In residential districts, a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

B. In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least one hundred fifty (150) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

5. Intersections. The following standards shall apply to the design of intersections:

A. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. No more than two (2) streets shall intersect at any one point unless specifically approved by the Council.

B. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred (800) feet apart.

C. Minimum curb radius at the intersection of two (2) municipal service streets shall be at least twenty (20) feet; and minimum curb radius at an intersection involving a municipal collector street shall be at least twenty-five (25) feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

D. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

- E. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
- F. The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.
6. Bridges. Bridges of primary benefit to the applicant, as determined by the Council, shall be constructed at the full expense of the applicant without reimbursement from the City. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Council, will be fixed by special agreement between the Council and the applicant. Said cost shall be charged to the applicant pro rata as the percentage of his or her land developed and so served.
7. Alleys. The following design standards for alleys shall be required of all subdividers:
- A. Alleys shall be prohibited in residential districts.
- B. 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.
- C. Alleys shall have a right-of-way of not less than thirty (30) feet and a roadway width of not less than twenty (20) feet.
- D. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- E. 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.
8. Street Dedications and Reservations. The following provisions shall apply to street dedications and reservations:
- A. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his or her own subdivision boundaries.
- B. Where a subdivision borders an existing narrow street or when City plans or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his or her expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying yard or area

requirements of the zoning regulations whether the land is to be dedicated to the City in fee simple or an easement is granted to the City.

166.42 STORM SEWERS AND DRAINAGE. The following requirements shall apply to the provision of storm sewers and drainage:

1. General Requirements. The Commission shall not recommend for approval any plat of a subdivision which does not make adequate provision for storm or flood water run-off channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods as approved by the Council, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than six hundred (600) feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

2. Nature of Storm Water Facilities. The applicant may be required by the Council to carry away by pipe or open ditch any spring or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

A. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the Council. However, in subdivisions containing lots less than fifteen thousand (15,000) square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved outfall.

B. If a connection to a public storm sewer will be provided eventually, as determined by the Council, the subdivider shall make arrangement for future storm water disposal by a public storm sewer system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

C. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Council shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by applicable zoning regulations.

D. The Council shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. City drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold

approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

E. The Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood plain of any stream or drainage course.

3. Dedication of Drainage Easements. The following shall apply to the dedication of drainage easements.

A. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

B. Drainage easements:

(1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the street lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.

(2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(3) The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the Council.

(4) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the area requirement of any lot.

166.43 WATER FACILITIES. Water facilities shall be provided as follows:

1. General Requirements. The following general requirements shall apply to the provision of water facilities:

A. Where a public water main is accessible the subdivider shall install adequate water facilities, including fire hydrants, subject to City specifications. All water mains shall be at least six (6) inches in diameter.

- B. Water main extensions shall be approved by the City.
 - C. To facilitate the above, the location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat and final plat.
2. Individual Wells and Central Water Systems. The following requirements shall apply to the provision of individual wells and central water systems:
- A. In the discretion of the Council, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the appropriate County or State agency for testing, and individual wells and central water systems shall be approved by the appropriate County or State health authorities. Orders of approval shall be submitted to the Council.
 - B. If the Council requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.
3. Fire Hydrants. Fire hydrants shall be required for all subdivisions except those coming under subsection 2 of this section. Fire hydrants shall be located no more than one thousand (1,000) feet apart and within five hundred (500) feet of any structures and shall be approved by the City.

166.44 SEWAGE FACILITIES. Sewage facilities shall be provided as follows:

- 1. General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the City construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the City and the State Department of Natural Resources or State Department of Health. Plans shall be approved by the above agencies.
- 2. Construction of Sanitary Sewage Systems. Sanitary sewage systems shall be constructed as follows:
 - A. Where a public sanitary sewage system is reasonably accessible, the applicant shall connect with the same and provide sewers accessible to each lot in the subdivision.
 - B. Where public sanitary sewer systems are not reasonably accessible but will become available within a reasonable time, not to exceed fifteen (15) years, the applicant may choose one of the following alternatives:
 - (1) Install a central sewage system, operated and maintained by the benefited property owners. Where plans for future public sanitary sewage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains.
 - (2) Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with

the public sewer main shall be made. Sewer lines shall be laid from the house to the street line and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

C. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the applicant shall install individual disposal systems or central sewage systems.

3. Individual Disposal System Requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of applicable zoning regulations and these regulations. Percolation tests and test holes shall be made as directed by the City and the results submitted to the local board of health.

4. Water Supply Interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

166.45 SIDEWALKS. The following requirements shall apply to the provision of sidewalks:

1. Location. Sidewalks shall be included within the dedicated non-pavement right-of-way of all streets.
2. Construction. Sidewalks shall be improved as required in subsection 2 of Section 166.41 of these regulations.

166.46 UTILITIES. The following shall apply to the provision of utilities:

1. Location. The Council may require that all utility facilities, including, but not limited to, gas, electric power, telephone and CATV cables, be located underground throughout the subdivision. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot, including stub-ins, shall be installed at the subdivider's expense. At the discretion of the Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
2. Easements. Easements shall be provided as follows:
 - A. Easements centered on rear lot lines shall be provided for utilities. Such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
 - B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual

unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.

166.47 PRESERVATION OF NATURAL FEATURES AND AMENITIES. Existing features which would add value to residential development or to the City as a whole, such as trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be protected against change of grade.

166.48 NONRESIDENTIAL SUBDIVISIONS. The following provisions shall apply to nonresidential subdivisions:

1. General. If a proposed subdivision includes land that is used for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Council, and shall conform to the proposed land use and standards established in City plans and regulations.
2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
 - A. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
 - B. Streets rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - C. Special requirements may be imposed by the City with respect to street, curb, gutter and sidewalk design and construction.
 - D. Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer and storm water drainage.
 - E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
 - F. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

166.49 SCHOOL AND PARK RESERVATIONS. If land to be subdivided contains sites that are designated in City plans or plans of other public bodies to be used for schools or

parcs, the developer shall reserve such site for such use. If sites which have been reserved are not acquired by the City or other public body within two (2) years of the date of the preliminary plat approval, then such sites may be subdivided by the developer. The appropriate public body may release the reserved site sooner by certifying to the Council that it does not intend to acquire such site within the two-year period.

166.50 IMPROVEMENTS WITHIN UNINCORPORATED JURISDICTION. Improvements in the two-mile unincorporated area under the jurisdiction of these regulations shall be the same as required herein, provided they are not less than that required by the applicable County subdivision regulations, and provided further that all construction plans shall be approved by the County, and completed public roads shall be accepted by the Board of Supervisors for public maintenance.

166.51 VARIATIONS AND EXCEPTIONS. The following shall apply to the granting of variations and exceptions:

1. Hardships. Where the Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

B. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property.

C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

D. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

2. Conditions. In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

3. Procedure for a Variance. A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

166.52 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, that such changes or amendments shall not become effective until after a public hearing has been held,

public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Commission for study and recommendation before the hearing is held. The Commission shall forward its recommendations to the Council within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment.

166.53 ENFORCEMENT, VIOLATIONS AND PENALTIES. No plat or subdivision within the City or within two (2) miles thereof shall be filed or recorded with the County, nor shall any plat or subdivision have any validity until it complies with the provision of these regulations, has been approved by the Council as herein set forth, and further:

1. Issuance of Building Permits. No more than two (2) building permits for each separate tract existing at the time of the effective date of these regulations shall be issued unless the tract has been platted in accordance with these regulations; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by applicable land use regulations such as zoning and restricted residence regulations or additions or improvements to a main or accessory building already legally located upon said tract.
2. Sale or Lease Without Plat. Any person who shall dispose of or offer for sale or lease any lots in the City or addition to the City, until the plat thereof has been acknowledged and recorded as provided in these regulations, shall forfeit and pay fifty dollars (\$50.00) for each lot and part of lot sold or disposed of, leased or offered for sale.

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CHAPTER 167

AIRPORT TALL STRUCTURE ZONING REGULATIONS

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167.01 SHORT TITLE. This chapter shall be known and may be cited as the Airport Tall Structure Zoning Ordinance.

167.02 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. **AIRPORT.** Rockwell City Airport.
2. **AIRPORT ELEVATION.** The highest point of an airport's usable landing area measured in feet from sea level.
3. **APPROACH SURFACE.** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 167.04 of this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. **APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES.** These zones are set forth in Section 167.03 of this chapter.
5. **BOARD OF ADJUSTMENT.** A Board consisting of 5 members appointed by the City Council/Board of Supervisors as provided in Chapter 329.12 of the *Code of Iowa*.
6. **CONICAL SURFACE.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. **HAZARD TO AIR NAVIGATION.** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. **HEIGHT.** For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. **HORIZONTAL SURFACE.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. **NONCONFORMING USE.** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provision of the chapter or an amendment thereto.

11. NONPRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach, procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
12. OBSTRUCTION. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 167.04 of the chapter.
13. PERSON. An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
14. PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 167.03 of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
15. RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
16. STRUCTURE. An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
17. TRANSITIONAL SURFACES. These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface at 90 degree angles to the extended runway centerline.
18. TREE. Any object of natural growth.
19. UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
20. VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures.
21. LARGER THAN UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

167.03 AIRPORT ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of that land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Rockwell City Airport. Such zones are shown on the Rockwell City Airport zoning map which is made a part hereof and is on file in the offices of the City of Rockwell City. An area located in more than one (1) of the following zones is considered to be only in

the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Nonprecision Instrument Approach Zone (20:1 Zone). The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone (34:1 Zone). The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
5. Transitional Zone. The transitional zone is established as the areas under the transitional surfaces.
6. Runway Protection Zone (RPZ). The runway protection zone is established as an area off the end of the runway intended to enhance the protection of people and property on the ground.

167.04 AIRPORT ZONE HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Nonprecision Instrument Approach Zone (20:1 Zone). Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. This approach zone shall apply to runway ends 3 and 21.
2. Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone (34:1 Zone). Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline. This approach zone shall apply to runway ends 13 and 31.
3. Transitional Zone. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the

approach surface, and extending to a height of 150 feet above the airport elevation which is 1009 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

4. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1367 feet above mean sea level.

5. Conical Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

6. Certain Structures Prohibited. No structure shall be erected in the City of Rockwell City or Calhoun County that raises the published Minimum Descent Altitude of Decision Height for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum obstruction Clearance Altitude or Minimum Enroute Altitude to be increased on any Federal Airway in the City of Rockwell City or Calhoun County.

167.05 USE RESTRICTIONS.

1. Generally. Notwithstanding any other provision of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

2. Landfill Restrictions. Landfills and waste disposal sites shall not be located within 5.75 miles of the Rockwell City Airport.

3. Permitted Uses in the Runway Protection Zones (RPZ). The following uses are permitted in the RPZ=s provided they do not attract wildlife, are outside the Runway OFA as shown on the Rockwell City Airport Layout Plan, and do not interfere with navigational aids: Golf courses (but not club houses) and agricultural operations (other than forestry or livestock farms) are expressly permitted under this proviso. Automobile parking facilities, although discouraged, may be permitted, provided the parking facilities and any associated appurtenances, in addition to meeting all of the preceding conditions, are located outside of the OFA extension.

4. Prohibited Uses in the Runway Protection Zones (RPZ). Land uses prohibited from the RPZ are: residences and places of public assembly such as churches, schools, hospitals, office buildings, shopping centers, and other uses with similar concentrations of persons typifying places of public assembly, and fuel storage facilities.

167.06 NONCONFORMING USES.

1. Regulations Not Retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified by this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified by this chapter and which is completed within one (1) year thereafter.

2. Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Rockwell City Airport.

167.07 PERMITS. The Airport Zoning Administrator shall review the development or planting of any structure or growth within the airport zones to assure compliance with the height limitations as established in Section 167.04 of this chapter.

1. No City Permit Required. No City permit shall be required for the construction or alteration of any structure or growth of any tree if the height of said structure or tree falls into the following categories:

A. No permit shall be required for any structure or growth of any tree up to a height of 50 feet above the surface of the land.

B. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any structure or growth of any trees less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

C. In the area lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any structure or growth of any tree less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones.

D. In addition, in any of the individual areas described in paragraphs B and C above, no permit shall be required for any tree or structure which - regardless of its proposed vertical height above the ground - does not extend to as great a height above sea-level as any of the natural terrain located directly between the location of the proposed tree or structure and any portion of the existing or proposed Airport runways.

The foregoing exceptions shall not be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter except as set forth in paragraph A.

2. City Permit Required. A City permit shall be required when the construction or alteration of any structure or growth of any tree exceeds the height limitations of the foregoing exceptions as set forth in paragraphs A, B or C above. An application for a permit shall indicate the purpose for which the permit is desired, with sufficient information to allow it to be determined whether the resulting use, structure, or tree would conform to the regulations hereby prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with Section 167.07(4).

3. Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified by this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in the chapter, may apply to the Board of Adjustment for a variance from such regulations. However, no such variance shall be granted unless the Board finds, based upon written advice from the Federal Aviation Administration that:

A. In an application to permit any structure, tree or use of land to exceed the height or use limitations of this chapter, that such structure, tree or use of land, would not obstruct landing and takeoff of aircraft at the Airport.

B. In an application to permit a use of land otherwise prohibited herein, that such use would not be incompatible with airport operations.

An applicant for a variance hereunder shall, as part of the application submitted to the Board, file the required written advice of the Federal Aviation Administration. No application for a variance hereunder shall be set for hearing by the Board until such advice has been filed. Such advice shall not be binding upon the Board of Adjustment, but shall be one of the factors considered by the Board when reaching its decision.

5. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Rockwell City Airport at its own expense, to install, operate, and maintain the necessary markings and lights.

6. FAA Permit Required. The following construction or alterations shall require the filing of FAA form 7460-1, Notice of Proposed Construction or Alteration: (1) Any construction or alteration of more than 200 feet in height above the ground level at its site; (2) Any construction or alteration of greater height than an imaginary surface which extends outward and upward and slopes one hundred feet (100

outward distance for each foot upward for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport.

A. FAA Form 7460-1 Time of Notice. The notice required under FAA Part 77, Objects Affecting Navigable Airspace, Sec. 77.13(a) (1) through (4) must be submitted at least 30 days before the earlier of the following dates: (1) The date the proposed construction or alteration is to begin; (2) The date an application for a construction permit is to be filed. However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to FAA at the same time the application for construction is filed with the Federal Communications Commission, or at any time before that filing.

167.08 ENFORCEMENT. It shall be the duty of the Airport Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Zoning Administrator upon a form published for that purpose. Applications required by this chapter to be submitted to the Airport Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator.

167.09 AIRPORT ZONING ADMINISTRATOR. The Airport Zoning Administrator shall be the Rockwell City Administrative Official.

167.10 BOARD OF ADJUSTMENT.

1. Created; Powers. There is hereby created a Board of Adjustment to have and exercise the following powers:

A. To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Administrator in the enforcement of this chapter;

B. To hear and decide special exceptions to the terms of this chapter upon which such Board of Adjustment under such regulations may be required to pass; and

C. To hear and decide specific variances.

2. Membership; Terms; Removal of Members. The Board of Adjustment shall consist of five members appointed by the City Council/Board of Supervisors and each shall serve for a term of five years until a successor is duly appointed and qualified. Of the members first appointed, one (1) shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years and one (1) for a term of one (1) year. Members shall be removable by the appointing authority for cause, upon written charges after a public hearing.

3. Organization; Meetings; Minutes; Records. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be

public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Airport Zoning Administrator and on due cause shown.

4. Written Findings of Fact. The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this chapter.

5. Voting. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Airport Zoning Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect variation to this chapter.

167.11 APPEALS.

1. Generally. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Zoning Administrator made in the administration of the chapter, may appeal to the Board of Adjustment.

2. Filing. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Airport Zoning Administrator a notice of appeal specifying the grounds thereof. The Airport Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. Staying of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Airport Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Airport Zoning Administrator and on due cause shown.

4. Time; Public Notice; Decision of Board. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

5. Affirming, Reversing, etc. The Board of Adjustment may, in conformity with the provision of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

167.12 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Section 414.5 of the Iowa Code.

167.13 PENALTIES. A violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a violation of this Code of Ordinances. Each day a violation continues to exist shall constitute a separate offense.

167.14 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulation applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

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