

TITLE I GENERAL PROVISIONS

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TITLE I GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

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SECTION 1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

(1) “City” means the City of Alburnett, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

(2) “Clerk” means Clerk-Treasurer.

(3) “Computation of time” means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day. If the last day is Sunday or a legal holiday, that day shall be excluded.

(4) “Council” means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state.

(5) “County” means Linn County, Iowa.

(6) “Fiscal Year” means July 1 to June 30.

(7) “Law” denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder.

(8) “May” confers a power.

(9) “Month” means a calendar month.

- (10) “Must” states a requirement.
- (11) “Oath” shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” shall be equivalent to the words “swear” and “sworn”.
- (12) “Or” may be read “and” and “and” may be read “or” if the sense requires it.
- (13) “Ordinance” means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution.
- (14) “Owner” applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.
- (15) “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- (16) “Personal property” includes money, goods, chattels, things in action and evidences of debt.
- (17) “Preceding” and “following” mean next before and next after, respectively.
- (18) “Property” includes real and personal property.
- (19) “Property Owner” means a person owning private property in the City of Alburnett as shown by the County Auditor’s plats of the City.
- (20) “Real property” includes any interest in land.
- (21) “Shall” imposes a duty.
- (22) “Sidewalk” means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- (23) “State” means the State of Iowa
- (24) “Street” includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
- (25) “Tenant” and “occupant” applied to a building or land, includes any person who occupies in whole or a part of such building or land, whether alone or with others.
- (26) “Title of Office”. Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City.

(27) “Writing” and “Written” include printed, typewritten, or electronically transmitted such as facsimile or electronic mail.

(28) “Year” means a calendar year.

(29) All words and phrases shall be construed and understood according to the common and approved usage of the language. Technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(30) When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

SECTION 1-1-2 INDEMNITY. The applicant for any permit or license under this Code, by making such application, assumes and agrees to pay for all injury to and death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code 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 and 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 or any other ordinance of the City whether expressly recited therein or not.

SECTION 1-1-3 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.

SECTION 1-1-4 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

(1) Gender. Any gender includes the other gender.

(2) Singular and Plural. The singular number includes the plural and the plural includes the singular.

(3) Tenses. Words used in the present tense include the past and the future tenses and vice versa.

(4) Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

SECTION 1-1-5 CONSTRUCTION. The provisions of this Code are to be construed with a view to affect its objects and to promote justice.

SECTION 1-1-6 ALTERING CODE. It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

(Code of Iowa, Sec. 718.5)

SECTION 1-1-7 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Alburnett Municipal Code of 2011 constituting this Municipal Code, and shall set forth the ordinance, code, section subsection, or paragraph as amended, which action is deemed to be a repeal of the previous ordinance, code, section, subsection or paragraph amended in order to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

SECTION 1-1-8 SEVERABILITY. If any section, provision or part of the City Code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 1-1-9 CITY POWERS. The City may, except as expressly limited by the Constitution of the State of Iowa, 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)

TITLE I GENERAL PROVISIONS

CHAPTER 2

PENALTY

- 1-2-1 General Penalty
- 1-2-2 Civil Penalty - Municipal Infraction
- 1-2-3 Criminal Penalties

SECTION 1-2-1 GENERAL PENALTY. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Ordinances of the City of Alburnett, Iowa is guilty of a simple misdemeanor, unless expressly stated elsewhere in this Code. Any person convicted of a misdemeanor under the Ordinances of City of Alburnett, Iowa shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment not to exceed thirty (30) days.

(Code of Iowa, Sec. 364.3(2))

SECTION 1-2-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

(1) Definitions.

(a) **Municipal Infraction.** Except 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 Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Alburnett, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Alburnett, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

(b) **Officer.** The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Alburnett.

(c) **Repeat Offense.** The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

(2) Violations, Penalties, and Alternative Relief.

(a) A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

Schedule of Civil Penalties

First offense--Not more than seven hundred fifty dollars (\$750.00).

(3) Special Civil Penalties

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

All other repeat offenses--Not more than one thousand dollars (\$1,000.00) for each repeat offense.
(Code of Iowa, Sec. 364.22)

(a) Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

(b) 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.

(4) Civil Citations

(a) Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

(b) The citation may be served by personal service, by certified mail, addressed to the defendant at the defendant's last know mailing address, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.

(c) The original of the citation shall be sent to the Clerk of the district court.

(d) The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(1) The name and address of the defendant.

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

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

SECTION 1-2-3 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does this 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 (8))

TITLE I GENERAL PROVISIONS

CHAPTER 3

SEALS OF THE CITY

- 1-3-1 Seal Of The City
- 1-3-2 City Motto
- 1-3-3 City Logo

SECTION 1-3-1 SEAL OF THE CITY. 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 is the word “Seal” and around the margin of which are the words “CITY OF ALBURNETT”.

SECTION 1-3-2 CITY MOTTO. The official City motto of Alburnett shall be “Alburnett, the comfort of country and community.”

SECTION 1-3-3 CITY LOGO. The official City logo of Alburnett shall be:



TITLE I GENERAL PROVISIONS

CHAPTER 4

RESERVED

TITLE I GENERAL PROVISIONS

CHAPTER 5

RESERVED

TITLE I GENERAL PROVISIONS

CHAPTER 6

RESERVED