

TITLE III COMMUNITY PROTECTION

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TITLE III COMMUNITY PROTECTION

CHAPTER 19

MISDEMEANORS – OFFENSES AGAINST PUBLIC PEACE

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SECTION 3-19-1 DISTRIBUTING DANGEROUS SUBSTANCES. No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance, commits a simple misdemeanor 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

SECTION 3-19-2 ASSAULT AND BATTERY. To apply, or to threaten or attempt to apply, an unlawful and unpermitted physical force to the person of another, in a rude and insolent manner, or with the intent to do physical harm, with the apparent ability to execute any attempt to threaten.

SECTION 3-19-3 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.

(b) Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

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

(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 act did not occur.

(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.

SECTION 3-19-4 DISORDERLY CONDUCT No person shall do any of the following:

(1) 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.

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

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

(4) Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(5) 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.

(6) Knowingly and publicly uses 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 a public offense.

(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 of others.

(8) Throwing and Shooting. It is unlawful for a person to throw stone, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles 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.

SECTION 3-19-5 UNLAWFUL ASSEMBLY AND RIOT. For three (3) or more persons in a violent or tumultuous manner to assemble together to do or attempt to do an unlawful act, or when together, to commit or attempt to commit an act, whether lawful or unlawful, in an unlawful, violent or tumultuous manner to the disturbance of others or to commit a public offense.

SECTION 3-19-6 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. Any person within hearing distance of such command, who refuses to obey, commits a simple misdemeanor.

SECTION 3-19-7 PROHIBITING SEX OFFENDERS. An Ordinance Prohibiting Sex Offenders From Residing Within Two Thousand Feet Of a Public Park, Public Land or Public Playground.

(1) Purpose. The purpose of this Ordinance is to provide for the safety and well being of all citizens of Alburnett.

(2) Definitions. For the Purpose of this ordinance the following shall be defined as shown herein:

(a) Sex Offender – A person who has been convicted of a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor as set out in Chapter 692A of the Code of Iowa.

(b) “Public Park” – Any area of land owned by the city of Alburnett, Linn County, the State of Iowa, or any other governmental entity set apart for the recreation of the public.

(c) “Public Playground” – Any area of land owned by the City of Alburnett, Linn County, the State of Iowa, or any other governmental entity used for outdoor games and recreation.

(d) “Public Land” – Any area of land owned by the city of Alburnett, Linn County, the State of Iowa, or any other governmental entity.

(3) Residency Restricted. A Sex Offender shall not reside within two thousand feet (2,000’) of the real property comprising a public park, public land or public playground.

(4) Municipal Infraction. A Sex Offender who resides within two thousand feet (2,000’) of the real property comprising a public park, public land or public playground commits a Municipal Infraction subject to penalty as set out in Chapter 2 of the Alburnett Code of Ordinances.

(5) Exceptions. A Sex Offender residing within two thousand feet (2000’) of the real property comprising a public park, public land or public playground does not commit a violation of this Ordinance if any of the following apply:

(a) The Sex Offender is required to serve at a jail, prison, juvenile facility, or other correctional institution or facility.

(b) The Sex Offender is subject to an order of commitment under Chapter 229A of the Code of Iowa.

(c) The Sex Offender has established a resident prior to Feb. 9, 2006, the effective date of this ordinance.

(d) The Sex Offender is a minor or a ward under guardianship.

SECTION 3-19-8 FALSE REPORT OF FIRE. For any person to disturb the order and quiet of the city by knowingly giving a false alarm of fire.

SECTION 3-19-9 FALSE REPORT TO POLICE. For any person to disturb the order and quiet of the city by knowingly giving a false report of the commission of a public offense to the Police Department or Mayor. It is also unlawful to telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

TITLE III COMMUNITY PROTECTION

CHAPTER 20

MISDEMEANORS – OFFENSES AGAINST PUBLIC MORALS AND DECENCY

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| 3-20-1 | Lewd Conduct |
| 3-20-2 | Public Consumption or Intoxication |
| 3-20-3 | Open Container of Alcoholic Beverage, Wine or Beer on Streets and Highways. |
| 3-20-4 | Persons Under Legal Age |

SECTION 3-20-1 LEWD CONDUCT. It shall be unlawful for any person to appear in any public place in this city in a state of nudity, or in any indecent or lewd dress; or to make any indecent exposures of his or her person; or to be guilty of any indecent or lewd act whatsoever.

(Code of Iowa, Sec. 709.9)

SECTION 3-20-2 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 and includes taking into custody pursuant to section 232.19.

(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.

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

(2) A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

(3) 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.

SECTION 3-20-3 OPEN CONTAINER OF ALCOHOLIC BEVERAGE, WINE OR BEER ON STREETS AND HIGHWAYS. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine or beer was found during an authorized search in the glove compartment, utility compartment console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine or beer while upon the public street or highway if the inference is supported by corroborative evidence. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

SECTION 3-20-4. PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply alcoholic liquor or beer to any person knowing or having reasonable cause to believe him to be under legal age; and no person or persons under legal age shall individually or jointly purchase or attempt to purchase any alcoholic liquor or beer in his or their possession or control except in the case of liquor or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes, or as administered to him by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages and beer during the regular course of his or her employment by a liquor control licensee or beer permitter under state law. 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.

TITLE III COMMUNITY PROTECTION

CHAPTER 21

MISDEMEANORS – OFFENSES AGAINST PROPERTY

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| 3-21-3 | Injuring or Defacing Property |
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| 3-21-5 | Unauthorized Entry |
| 3-21-6 | Fraud |
| 3-21-7 | Theft |
| 3-21-8 | Raising Livestock within City Limits Prohibited |

SECTION 3-21-1 TRESPASSING. It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term “property” includes any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term “trespass” means one or more of the following acts:

(Code of Iowa, Sec. 716.7 and 716.8)

(1) Entering 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, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.

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

(2) Entering or remaining 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.

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

(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.

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

(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.

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

(5) None of the above shall not mean 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.

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

SECTION 3-21-2 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))

SECTION 3-21-3 INJURING OR DEFACING PROPERTY. It shall be unlawful for any person within the corporate limits of this City to cut, hack, deface with paint or chemicals, or in any manner injure any awning, grade stake, grave marker or monument, lamp post, gas or water pipe, tree, plant, flower or shrub, railing, fence or any other property not owned by him.

(Code of Iowa, Sec. 716.1)

SECTION 3-21-4 INJURING OR DEFACING OR REMOVING SIGNS, MARKERS AND GRADE STAKES. It shall be unlawful for any person within the corporate limits of this City to remove, deface, destroy, injure or alter in any way any notice, street sign, street marker, traffic sign, street or sidewalk barricade, warning light or signal, grade stake, stone, fence mark or monument set by or under authority of the City Council.

(Code of Iowa, Sec. 716.5)

SECTION 3-21-5 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises or ground 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 any required admission fee also constitutes an unauthorized entry.

SECTION 3-21-6 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)

SECTION 3-21-7 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)

SECTION 3-21-8 RAISING LIVESTOCK WITHIN CITY LIMITS PROHIBITED. It shall be unlawful for any person to keep within the corporate limits of this City all cattle, swine, sheep, goats, or fowl (including chickens, geese, ducks and pigeons). The restriction herein imposed shall not be applicable to persons legally keeping or raising chickens, geese, ducks and other fowl within the corporate limits as of the official adoption date of this ordinance. No person, however, shall be able to add to the number of chickens, geese, ducks and other fowl that have been legally allowed as of the official adoption date of this ordinance.

TITLE III COMMUNITY PROTECTION

CHAPTER 22

MISDEMEANORS – OFFENSES AGAINST PUBLIC SAFETY

- 3-22-1 Resisting an Officer
- 3-22-2 Refusing to Assist Officer
- 3-22-3 Use of Barbed Wire Prohibited
- 3-22-4 Discarded, Abandoned, or Unattended Refrigerators, Freezers or Similar Devices

SECTION 3-22-1 RESISTING AN OFFICER. It shall be unlawful for any person, within the corporate limits of this City, to resist, obstruct, or in any way interfere with a public officer in the performance of any official duty.

(Code of Iowa, Sec. 718.4)

SECTION 3-22-2 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. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested.

(Code of Iowa, Sec. 719.2)

SECTION 3-22-3 USE OF BARBED WIRE PROHIBITED. It shall be unlawful for any person within the corporate limits to erect or maintain a barbed wire fence unless such land consists of ten (10) acres or more and is used as agricultural land or except with permission of the City Council

(Code of Iowa, Sec. 364.1)

SECTION 3-22-4 DISCARDED, ABANDONED, OR UNATTENDED REFRIGERATORS, FREEZERS OR SIMILAR DEVICES. 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 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)

TITLE III COMMUNITY PROTECTION

CHAPTER 23

PROHIBITING THE USE OF GUNS, BOWS, SLINGSHOTS, FIREWORKS AND EXPLOSIVES

- 3-23-1 Discharging and Use of Guns, Bows and Slingshots
- 3-23-2 Fireworks and Explosives

SECTION 3-23-1 DISCHARGING AND USE OF GUNS, BOWS AND SLINGSHOTS. It shall be unlawful for any person within the city limits to shoot, throw, or discharge any bullet or missile of any kind by use of a gun, air gun, slingshot, bow and arrow, or any other device, toy or mechanism, unless written permission shall have been received from the Mayor who may issue such permits for destruction of pests.

SECTION 3-23-2 FIREWORKS AND EXPLOSIVES. It shall be unlawful for any person to discharge any fireworks, explode any firecracker, or any device containing powder or other explosives within the City. The City Council may by resolution suspend the operation of this section in whole or in part on the Fourth day of July, or any other day; provided, further, that the City Council may grant permits for discharging fireworks for public displays. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts.

- (1) Personal Injury: \$250,000.00 per person.
- (2) Property Damage: \$50,000.00
- (3) Total Exposure: \$1,000,000.00
(Code of Iowa, Sec. 727.2)

TITLE III COMMUNITY PROTECTION

CHAPTER 24

HAZARDOUS SUBSTANCES

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| 3-24-3 | Cleanup Required |
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SECTION 3-24-1 PURPOSE. In order to reduce the danger of public health, safety and welfare from the spills of hazardous substances these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the city limits.

SECTION 3-24-2 DEFINITIONS. For the purpose of this Chapter these words have the following meanings:

(1) “Hazardous waste” means those wastes which are included by the definition in Section 455B.441, subsection 3, paragraphs a and b, Code of Iowa (2001).

(2) “Hazardous substance” means any substance as defined in Section 455B.381, subsection 5, Code of Iowa (2001).

(3) “Hazardous conditions” means the same as set out in Section 455B.381, subsection 4, Code of Iowa (2001)

(4) “Responsible person” means the party, whether the owner, agent, lesser, or tenant, in charge of the hazardous substance or hazardous wastes being stored, processed, or handled, or the owner or bailer transporting hazardous wastes or substances whether on public way or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.

(5) “Cleanup” means the removal of the hazardous wastes or substances to a place where the waste will not cause any danger to persons or the environment, in accordance with state rules therefore or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as for as practicable.

(6) “Treatment” means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safer for transport, amendable for recovery, including any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it non-hazardous.

SECTION 3-24-3 CLEANUP REQUIRED. Wherever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or substance, so that the hazardous waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any water, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the in the preceding section, as rapidly as feasible to an acceptable safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting on a deadline for accomplishing the cleanup or that the City will proceed to procure cleanup services and setting forth a reasonable estimate of the costs of cleanup and bill the responsible person for all costs associated with the cleanup, including but not limited to equipment rendered unserviceable; personnel costs, including overtime; disposal costs, and any other costs associated therewith. If the bill for those services is not paid within thirty (30) days, the City of Alburnett may proceed after service of notice, either by certified mail or on publication in the local newspaper and hearing before the City Council, to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any state or federal funds available for said cleanup.

SECTION 3-24-4 NOTIFICATIONS. The first City Officer or employee, who arrives at the scene of an incident involving hazardous substances, if not a Peace Officer, shall notify the Linn County Sheriff which shall notify the proper State Office in the manner established by the state.

SECTION 3-25-5 LOCAL AUTHORITY. If the circumstances reasonably so require, the Mayor or his representative, or the Alburnett Fire Chief, may:

- (1) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and
- (2) Establish perimeters or other boundaries at or near the site of a hazardous condition beyond which no person shall cross. No person shall disobey an order issued under this section.

SECTION 3-26-6 CITY LIABILITY. The City of Alburnett, Iowa, shall not be liable for any losses occurring due to any hazardous condition created which may be claimed by any person, firm, or corporation.

TITLE III COMMUNITY PROTECTION

CHAPTER 25

REGULATING THE PLANTING, CARE AND TRIMMING OF TREES

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| 3-25-4 | Removal of Trees |
| 3-25-5 | Trimming of Trees Under the Supervision of the Public Works Director |
| 3-25-6 | Inspection and Removal |

SECTION 3-25-1 DEFINITIONS. For use in this ordinance, the following terms are defined:

(1) The term “person” shall mean individual, firm, corporation, trust, association or any other organized group.

(2) The “street” shall mean the entire width between property lines of avenues or highways.

(3) The term “parking” shall mean that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot lines and curb line; or, on unpaved street, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

(4) The term “property owner” shall mean a person owning private property in the city as shown by the county auditor’s plats of the city.

(5) The term “public property” shall mean any and all property located within the confines of the city and owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.

SECTION 3-25-2 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street.

SECTION 3-25-3 DUTY TO TRIM TREES. The owner of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches shall be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

SECTION 3-25-4 REMOVAL OF TREES. The City shall remove, on the order of the council, any trees on the streets of this municipality which interferes with the making of improvements or with travel thereon. The City shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public, or which may otherwise be

declared a nuisance. Any diseased tree cut down should be removed to a designated disposal area immediately.

SECTION 3-25-5 TRIMMING OF TREES UNDER THE SUPERVISION OF THE PUBLIC WORKS DIRECTOR. Except as allowed this Code of Ordinance, no person may trim or cut any tree in a street or public place unless the work is done under personal supervision of the City.

SECTION 3-25-6 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

(1) If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements of with travel thereon.

(2) If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notifications. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

TITLE III COMMUNITY PROTECTION

CHAPTER 26

MUNICIPAL INFRACTIONS

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| 3-26-4 | Vehicles Constituting a Public Nuisance |
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| 3-26-7 | Notice to Abate |

SECTION 3-26-1 PUBLIC NUISANCES AFFECTING PEACE, SAFETY, AND GENERAL WELFARE. The following are declared to be nuisances affecting public peace, safety and general welfare:

(1) Old Machinery, Junk, Etc. The piling, storage or keeping of old or unused machinery, machinery parts, junk, tires, wheels, boats, broken or unused furniture, household furnishings, appliances or component parts thereof or other debris within the city. This section shall not apply to ornaments consisting of machinery or machinery parts or to units of antique machinery owned and maintained as collector's items.

SECTION 3-26-2 SPECIAL PROVISIONS—ABANDONED OR INOPERABLE MOTOR VEHICLES – MUNICIPAL INFRACTIONS.

SECTION 3-26-3 DEFINITIONS As used in this chapter, the following terms shall have the following definitions:

(1) Abandoned vehicle means a motor vehicle which has remained for a period of more than forty-eight (48) hours on public property illegally. A motor vehicle that has remained for a period of more than twenty (20) days on private property with or without the consent of the person in control of the property, in an inoperable condition, unless it is kept in an enclosed garage or storage building, shall also be considered an abandoned vehicle. It shall also mean a motor vehicle voluntarily surrendered by its owner to the City or to a towing contractor hired by the City for its removal. A junk vehicle shall also be considered an abandoned vehicle for the purpose of this Chapter.

(Code of Iowa, Sec. 321.89(1)(a) (1), (2) (3), (4))

(2) Junk vehicle means a motor vehicle or trailer which is not currently licensed or which is in an inoperable condition or which is partially dismantled, or which is used for sale of parts or as a source of repair or replacement parts for other vehicles or which is kept for scrapping, dismantling or

salvage of any kind, unless such vehicle is kept in an enclosed garage or storage building. A junk vehicle shall also be considered an abandoned vehicle for the purpose of this ordinance.

(3) Inoperable condition means that the vehicle has no substantial potential use consistent with its usual function, and shall include a vehicle that (a) has a missing or defective part that is necessary for the normal operation of the vehicle, (b) or is stored on blocks, jacks, or other supports, or (c) has not had a current vehicle license for at least twenty days, or (d) has not moved under its own power for at least twenty days (e) does not have a valid insurance card.

SECTION 3-26-4 VEHICLES CONSTITUTING A PUBLIC NUISANCE.

(1) Abandoned and junk vehicles are declared to be a public nuisance creating a hazard to the health and safety of the public because they invite plundering, create fire hazards, attract vermin and present physical dangers to the safety and well-being of children and other citizens. The accumulation and outside storage of such vehicles is in the nature of rubbish, litter, and unsightly debris and is a blight on the landscape and a detriment to the environment and storage of such abandoned and junk vehicles shall constitute a violation of this ordinance and a municipal infraction by the owner of the vehicle and the owner of the property upon which such vehicle is stored or located.

(2) Any vehicle, whether occupied or not, that is found stopped or parked in violation of any ordinance or state statute; or that is reported stolen; or that is impeding fire fighting, snow removal or plowing or the orderly flow of traffic, is declared to be a public nuisance.

(3) Any vehicle which is impeding public road or utility repair, construction, or maintenance activities after reasonable notice in writing of the proposed activities has been given to the vehicle owner or user at least twelve hours in advance, is declared to be a public nuisance.

SECTION 3-26-5 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon a private property, unless excepted by Section 3-26-6, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

SECTION 3-26-6 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within a garage or other enclosed structure.

SECTION 3-26-7 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 3-26-5, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 27 of this code of Ordinances.

TITLE III COMMUNITY PROTECTION

CHAPTER 27

NUISANCE

| | |
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| 3-27-2 | Public Nuisances Affecting Peace, Safety, and General Welfare |
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| 3-27-11 | Collection of Costs |
| 3-27-12 | Failure to Abate |
| 3-27-13 | Installment Payment of Cost of Abatement |

SECTION 3-27-1 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)

SECTION 3-27-2 PUBLIC NUISANCES AFFECTING PEACE, SAFETY, AND GENERAL WELFARE. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

(Code of Iowa, Sec. 657.2)

(1) The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, 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) The causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

(3) The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

(4) The 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) The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

(6) 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, or places resorted to by persons using controlled substances, as defined in section 124.101, subsection 5, 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.

(7) Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which 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.

(8) Any object or structure hereafter erected within one thousand 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.

(9) The 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 a city, unless in a building of fireproof construction, is a public nuisance.

(10) The emission of dense smoke, noxious fumes, or fly ash in cities is a nuisance and cities may provide the necessary rules for inspection, regulation and control.

(11) Dense growth of all weeds, vines, brush, or other vegetation in any city so as to constitute a health, safety, or fire hazard is a public nuisance.

(12) Trees infected with Dutch elm disease in cities.

SECTION 3-27-3 OTHER CONDITIONS. The following subjects from this Code of Ordinances contain regulations prohibiting or restricting other conditions which are deemed to be nuisances:

- (1) Junk and Junk Vehicles
- (2) Dangerous Buildings
- (3) Storage and Disposal of Solid Waste
- (4) Trees

SECTION 3-27-4 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 under State Law.

(Code of Iowa, Sec. 657.3)

SECTION 3-27-5 ABATEMENT. Whenever the Mayor or other authorized officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

SECTION 3-27-6 NOTICE TO ABATE: CONTENT. The notice to abate shall contain:

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

- (1) Description of Nuisance. A description of which constituted the nuisance.
- (2) Location of Nuisance. The location of the nuisance.
- (3) Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- (4) Reasonable Time. A reasonable time within which to complete the abatement.
- (5) 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 seven (7) day time period prescribed, the City will abate it and assess the costs against such person.

SECTION 3-27-7 METHOD OF SERVICE. A notice must be in writing and personally served upon the person or sent by certified mail, return receipt requested, to the property owner and/or the person in possession of the property.

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

SECTION 3-27-8 REQUEST FOR HEARING. Any person ordered to abate a nuisance may request to 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 period 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 period under the circumstances.

SECTION 3-27-9 ABATEMENT IN AN 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 which may be required under this chapter without prior notice. The City shall assess the costs as provided in this Chapter, after notice to the property owner under the applicable provisions of this Chapter and a hearing.

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

SECTION 3-27-10 ABATEMENT BY CITY. If the person notified to abate a nuisance or condition neglect 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(3)(h))

SECTION 3-27-11 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 thirty (30) days, the Clerk shall certify the cost to the County Treasurer and such cost shall then be collected with, and in the same manner, as general property taxes.

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

SECTION 3-27-12 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail to refuse to abate or remove the same within the time required and specified in the notice to abate is in violation of this Code of Ordinances.

SECTION 3-27-13 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City shall 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.

TITLE III COMMUNITY PROTECTION

CHAPTER 28

BUILDING CODE

| | |
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SECTION 3-28-1 TITLE. This chapter shall be known and may be referred to as the City of Alburnett Building Codes.

SECTION 3-28-2 ADOPTION OF CODES. Except as hereafter modified, those certain Building Codes known as the International Building Code, 2006 Edition, and the International Residential Code for One- and Two- Family Dwellings, 2006 Edition, including Appendix G titled Swimming Pools, Spas and Hot Tubs, as published by the International Code Council, Inc. which codes are hereby specifically incorporated by reference, shall be known as the Building Code. The provisions of said Building Code shall be controlling in the design, construction, quality of materials, erection, installation, addition, alteration, repair, location, relocation, replacement, removal, demolition, use and maintenance of buildings and other structures and in all matters covered by said Building Code within the incorporated limits of the City of Alburnett

SECTION 3-28-3 AMENDMENTS TO THE BUILDING CODES. Certain sections, and portions of sections, of the International Building Code, 2006 Edition, (hereinafter IBC), and the International Residential Code for One- and Two-Family Dwellings, 2006 Edition (hereinafter IRC), are hereby modified as set forth in the following sections of this chapter.

SECTION 3-28-4 ADMINISTRATION. Chapter 1 of the IRC entitled Administration is deleted in its entirety and replaced with the IBC Chapter 1 entitled Administration as may be modified.

- (1) Insert the following into IBC Section 101.1 entitled Title: Alburnett, Iowa.

SECTION 3-28-5 APPOINTMENT. Amend IBC Section 103.2 entitled Appointment to read as follows:

The Building Official shall be appointed by the City Council and shall serve at the pleasure of the Council. The Building Official shall receive compensation as determined by the City Council as adopted by resolution.

SECTION 3-28-6 DEPUTIES. Amend IBC Section 103.3 entitled Deputies to read as follows:

The Building Official may employ such number of deputy building officials, the related technical officers, inspectors, plan examiners and other employees as shall be authorized from time to time. The services of these deputies and their compensation shall be authorized by the City Council.

SECTION 3-28-7 WORK EXEMPT FROM PERMIT. Modify IBC Section 105.2, Work Exempt from Permit, Building, by deleting item 1 One-story detached, deleting item 2 Fences and adding the following:

- (1) One-story Detached Accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet and not placed within an easement or 100 year flood hazard area. This does not exempt applicant from providing a site plan for zoning approvals as provided for in Chapter 64 of this Code of Ordinances.

- (2) Fences installed less than 3 feet high and not within an easement or 100 year flood plain.

SECTION 3-28-8 APPLICATION. Add the following items to IBC Section 105.3 entitled Application:

- (1) Type of waste water system serving the property.
- (2) Type of potable water system serving the property.
- (3) Zoning District of the property which work is being requested for.

SECTION 3-28-9 ACTION ON APPLICATION. Add the following new paragraphs to IBC Section 105.3.1 Action on Application:

When an application involves new construction or changes of use, the Building Official or deputies shall submit the application to the Zoning Administrator for examination. The Zoning Administrator will provide in writing the Administrator's findings relative to compliance with Chapter 64 of this Code of Ordinances. The Building Official or deputy shall not issue a building permit unless the written approval from the Zoning Administrator has been received.

It is the Building Official's or deputy's responsibility to identify and verify that all approvals are received from other City officials, engineers or other approving jurisdictions. The Building Official or deputy is required to have written documentation of such other approvals on file with the building permit.

SECTION 3-28-10 EXPIRATION. Modify IBC Section 105.5, Expiration, by adding new Section 105.5.1 as follows:

105.1 Expiration. Every building permit issued under the provisions of the Code shall expire twelve (12) months from the date of issuance, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule. If the work has not been completed and approved prior to the expiration date of the permit, the owner or the owner's agent shall pay a renewal fee. The extension shall be requested in writing and justifiable cause demonstrated. No further work shall be done until such fee is paid and the permit renewed. Extension of any permit will be granted, but not to exceed a maximum period of twelve (12) months beginning at the original permit expiration date, provided no changes have been made in plans or location. The permit renewal fee shall be provided in the schedule of fees set by resolution of City Council. Table 3A Building Permit and Inspection Fee Schedule.

SECTION 3-28-11 SITE PLAN. Add the following new paragraph to IBC Section 106.2 Site Plan:

The following additional information shall be required on the site plan: any driveways existing or proposed and all easements.

SECTION 3-28-12 APPROVAL. Amend IBC Section 106.3.1, Approval of Construction Documents, by deleting the first sentence and replacing with the following sentence:

When the Building Official issues a permit, the construction documents shall be approved, in writing and by stamp indicating they have been reviewed for code compliance.

SECTION 3-28-13 SCHEDULE OF PERMIT FEES. Delete IBC Section 108.2, Schedule of Permit Fees, and replace with the following sections:

108.2 Schedule of Fees. On buildings, structures or alternations requiring a permit, a fee for each permit shall be paid as set forth in Table 3A Building Permit and Inspection Fee Schedule as adopted by resolution.

108.2.1 Site Plan Review Fees. When plans or other submittal documents are required by Section 3-28-11, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be in addition to the permit fee and in accordance with the fee schedule as established by resolution of the City Council.

108.2.2 Investigation Fees for Work Without a Permit. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, an investigation fee in addition to the permit fee shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The payment of the investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law in Chapter 2 of this Code.

SECTION 3-28-14 VALUATION. Modify IBC and IRC Section 108.3 adding a new section 108.3.1 as follows:

108.3.1 Valuation. Valuation for the purpose of establishing permit fees for new construction, additions or alterations to existing buildings shall be determined by the Building Official from the Table 3B Valuation Schedule as adopted by resolution.

Table 3B Valuation Schedule shall be used in determining the value of the work being performed. The valuation shall be used in computing the permit fee. Fees shall be the total value of all work for which the permit is issued including but not limited to; finish work, painting, roofing, and any other permanent work or equipment. The total valuation determined by the Building Official shall be used in conjunction with Table 3A Building and Inspection Fee Schedule to determine total permit fees payable to the City of Alburnett.

SECTION 3-28-15 RE-INSPECTION FEES. Amend IBC and IRC by adding a new Section 108.6 as follows:

108.6 Re-inspection Fee. A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete, when corrections called for are not made, for failure to provide access on the date for which inspection is requested, when the approved plans are not readily available to the inspector, inspection card is not posted or otherwise available on the work site, for deviations from the plans which would require the approval of the Building Official or the building permit and the property and building address is not properly posted. The re-inspection fee shall be in accordance with the schedule of fees Table 3A Building and Inspection Fee Schedule as established by resolution by the City Council.

This section is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

SECTION 3-28-16 USE AND OCCUPANCY. Delete IBC Section 110.1, Use and Occupancy, and replace as follows:

110.1 Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefore as provided herein. When a change in occupancy classification occurs, the Building Official shall notify the Zoning Administrator to review the change for compliance to the Alburnett Code. The Zoning Administrator shall complete the review in a timely manner and provide written documentation of the findings. The certificate of occupancy shall not be released until the Zoning Administrator's approval has been received. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or other ordinances of the jurisdiction.

SECTION 3-28-17 CERTIFICATE ISSUED. Modify IBC Section 110.2, Certificate Issued, by adding item 13 as follows:

Zoning District of property.

SECTION 3-28-18 BOARD OF APPEALS. Modify IBC Section 112, Board of Appeals, and add the following:

112 Board of Appeals.

112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the Building, Plumbing, Electrical, Mechanical and other related codes. There shall be a Alburnett Building Board of Appeals consisting of five (5) members, none of who are employees of the City. Three members should be experienced in the construction field with at least 10 years of experience and one shall have electrical experience, provided such qualified candidates are available and two (2) members shall be private citizens, all of whom may be residents of Alburnett. The Building Official or designated representative shall be an ex-officio member without a vote and shall act as secretary of the Board. Each appointment or new appointment shall be for a term of three (3) years, with the terms of not more than two (2) members to expire December 31 of any one year.

The Board shall hold regular meetings on the fourth Tuesday of each month, unless there is no appeal to consider or business to conduct.

The Alburnett Building Board of Appeals shall be appointed by the Mayor subject to approval by the City Council and shall serve without compensation, except mileage. The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the Building Official for appropriate distribution and filing. The Alburnett Building Board of Appeals shall make recommendations from time to time to the City Council for appropriate legislation with respect to the Building, Mechanical, Electrical and Plumbing and other related Codes. Fees for appeals to the Alburnett Building Board of Appeals shall be provided for in the schedule of fees set by resolution by the City Council.

112.2 Limitations on Authority. An application for appeal shall be based on a claim that the true intent of the codes they administer or the rules legally adopted there under have been incorrectly interpreted, the provisions of the codes do not fully apply, or an equally good or better form of construction is

proposed. The Board shall have no authority to waive requirements of the codes that they are assigned to oversee.

SECTION 3-28-19 CLIMATE AND GEOGRAPHICAL DESIGN CRITERIA. Insert climatic and geographic design criteria in IRC R301.2 (1) as follows:

| Ground Snow Load | Wind Speed MPH | Seismic Design Category | Subject to Damage From: | | | | Winter Design Temp | Ice Shield Under-Layment Required | Flood Hazards | | Air Freezing Index | Mean Annual Temp |
|------------------|----------------|-------------------------|-------------------------|------------------|----------------|-----------------|--------------------|-----------------------------------|---------------|----------|--------------------|------------------|
| | | | Weathering | Frost Line Depth | Termite | Decay | | | NFIP Adoption | FIRM Map | | |
| 30 PSF | 90 | A | Severe | 42" | Moderate-Heavy | Slight-Moderate | -5 F | Yes | 1982 | 7-5-82 | 1784 | 48.9 |

SECTION 3-28-20 GROUND SNOW LOADS. Delete IBC Section 1608.2, Ground Snow Loads, and replace with the following:

1608.2 Ground Snow Loads. The ground snow load to be used in determining the design snow loads for roofs shall be 30 pounds per square foot.

SECTION 3-28-21 EMERGENCY ESCAPE AND RESCUE OPENINGS. Modify IRC Section R310.1 Emergency Escape and Rescue Openings by adding an exception for existing basements, as follows:

1. Exception for existing basements. For emergency escape and rescue windows required for the remodeling or finishing of space in an existing basement, the maximum sill height may be measured from an elevated landing not less than 36 inches wide, not less than 18 inches out from the interior finish of the exterior wall and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the window it serves.

SECTION 3-28-22 PROFILE.

(1) Modify IRC Section R311.5.3.3, Profile, by adding the following exception:

R311.5.3.3 Exceptions 3. The opening between adjacent treads is not limited on exterior stairs.

(2) Modify IBC Section 1009.3.2, Profile, by adding the following exception:

IBC 1009.3.2 Exception 3. Solid risers are not required and the opening between adjacent treads is not limited on exterior stairs for Occupancy Groups R-3 and U.

SECTION 3-28-23 FOOTING DEPTH. Modify IRC Section R403.1.4.1, Footing Depth, by adding the following exception:

R403.1.4 Exception 3. Slab-on-Grade Foundation. One story detached accessory buildings of wood or steel frame construction, 1,250 square feet in area or less, may have a concrete slab-on-grade foundation. The slab- on-grade shall be a minimum of four inches thick reinforced concrete and shall

be thickened at its entire perimeter to a minimum cross section dimension of 10 inches wide by 10 inches high. The thickened portion shall have continuous reinforcing with a minimum of one No. 4 reinforcing bar at the top and bottom. Reinforcement of the slab shall be 6 inches by 6 inches welded wire mesh or a minimum of No. 4 reinforcing bars 24 inches on center both ways and such reinforcing shall extend into the thickened portion. The slab shall be cast monolithically with the thickened portion. Foundations supporting wood shall extend not less than six (6) inches above finish grade. The vertical distance from the top of the slab-on-grade foundation to the lowest point at the base shall not exceed 24 inches.

SECTION 3-28-24 FOUNDATION DRAINAGE.

(1) Delete IRC Section R405.1, Concrete or Masonry Foundation Drainage, including the exception, and add the following:

R405.1 Foundation Drainage for Masonry or Concrete Foundations. Drains shall be provided around all concrete or masonry foundations that retain earth and enclose habitable or usable spaces located below grade. Perforated drainage pipe not less than 4 inches diameter or equivalent cross section area, or other approved systems or materials, shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into an approved drainage system. Perforated drainage pipe shall be placed on a minimum of 2 inches of $\frac{3}{4}$ inch minimum washed crushed rock and shall be covered with not less than 6 inches of the same material.

(2) R405.2.3 Drainage discharge. The floor base and foundation perimeter drain shall discharge by gravity or mechanical means into an approved drainage system that complies with the following:

(a) New Building Construction. All new construction of a principal use on a lot shall provide for connection of sump water discharge to a dedicated City drain tile or storm sewer whenever such drain tile or storm sewer is located immediately adjacent to such lot or located within twenty-five (25) feet thereof in the public right-of-way or a drainage easement.

(b) Sump pit located inside building. Exception: Sump pit may be omitted if drainage tile can be designed with natural fall and drain on same property if approved by the Building Official.

(c) For each sump pit installed a pump discharge pipe shall be provided running continuous from a point directly outside the sump pit to the City storm sewer or other approved discharge location.

(d) Pump discharge pipe shall be installed as per the requirements of the City of Alburnett Plumbing Code with connections to City's approved Storm Sewer or 6" subdrain tile as per City of Alburnett Design Standards And Specifications.

(e) Installation of sump pump if one is found by the Building Official to be necessary. It shall be equipped to automatically provide for discharge of sump pit water outside the basement wall and to an approved drainage system or to an above grade drainage location approved by the Building Official or City Engineer.

FPN: A sump pump will be considered to be necessary if water inside the sump pit will not recede to a level four inches or more below the lowest basement floor surface by gravity or absorption into the earth within a reasonable period of time.

(f) The outlet line from the sump pump shall discharge a minimum of two (2) feet from the outside foundation wall and/or be approved by Building Official.

(g) Existing Development. Upon determination that a excessive sump pump discharge above ground occurs, the Building Official or City Engineer may require the property owner to connect a sump water discharge hose or other device to a dedicated City drain tile or storm sewer system, or surface drainage way or slope, provided such drain tile or storm sewer is located immediately adjacent to or located within twenty-five feet (25) thereof, in the public right-of-way or a drainage easement, of the property causing the nuisance.

(h) Where ground water conditions warrant, the Building Official may require additional drainage pipe or systems as is deemed necessary.

(3) Modify IBC Section 405 to add new section 405.3.3 as follows:

Swimming pools shall be designed and constructed so as to provide for appropriate drainage of water resulting from overflowing, draining, and maintenance operations. The site plan for a proposed swimming pool shall indicate where pool drainage is to be directed in such a manner that:

(a) Swimming pool drainage water shall be directed away from any structure foundation.

(b) Ponding of surface water shall be avoided.

(c) Swimming pool drainage water shall be de-chlorinated before being directed to available drainage tile or storm sewer systems. If the swimming pool water is not de-chlorinated it must be directed to the sanitary sewer at a controlled flow rate approved by the City. Discharge of chlorinated water to the storm water system would be a violation of the EPA Storm Water Discharge Regulations and would result in a municipal infraction for an illicit discharge.

(d) Surface water shall not be discharged to any adjacent property except upon drainage easements or established waterways said easements or waterways should not be altered so that upstream water flow is adversely affected.

(e) Water flow shall be controlled to avoid excessive volume or velocity, which could cause soil erosion or create other possible hazards.

Final graded lots shall comply with the site grading plan and any terms of the memorandum of agreement for the approved subdivision.

SECTION 3-28-25 SEPARATION ITEM. Modify IBC Section 406.1.4 Separation Item 1 Private Garage by replacing “1/2-inch “ to “5/8-inch chimney enclosures. Amend the IBC by adding a new Section 421 and the IRC by adding a new Section R325 as follows:

SECTION 3-28-26 CHIMNEY ENCLOSURES. All enclosed chimneys serving solid fuel burning fireplaces and appliances shall be separated from the structure to which they are attached by

installation of materials approved for one-hour fire resistive construction on the chimney side of the enclosure. The separation shall extend from the base of the appliance to the outer roofline.

SECTION 3-28-27 WEATHER RESISTANT. Modify IRC Section R703.2, Weather-Resistant Sheathing Paper, by deleting the exception in its entirety.

SECTION 3-28-28 IRC TABLE R703.4. Modify IRC Table R703.4 by changing all responses in the column titled SHEATHING PAPER REQUIRED to YES.

SECTION 3-28-29 WEATHER PROTECTION. Delete IBC Section 1405.2, Weather Protection, and add the following:

1405.2 Weather Protection. Exterior walls shall provide weather protection for the building. The materials of the minimum nominal thickness specified in Table 1405.2 shall be acceptable as approved weather coverings when installed over an approved water-resistive barrier installed in accordance with section 1404.2.

SECTION 3-28-30 ENERGY CERTIFICATE. Amend the IRC, Section N1101.8 to delete in its entirety.

SECTION 3-28-31 WINDOW SILLS. Amend the IBC to delete in its entirety Section 1405.12.2 and IRC Section 613.2.

SECTION 3-28-32 ENERGY EFFICIENCY. Modify IRC Table N1102.1 by inserting the following values for the City of Alburnett.

| TABLE N1102.1 | | | | | | | |
|---|----------|----------------------------|------------------|--------|----------------|----------------------------------|-------------------|
| SIMPLIFIED PRESCRIPTIVE BUILDING ENVELOPE THERMAL COMPONENT CRITERIA MINIMUM | | | | | | | |
| REQUIRED THERMAL PERFORMANCE (U-FACTOR AND R-VALUE) | | | | | | | |
| | MAXIMUM | MINIMUM INSULATION R-VALUE | | | | | |
| | GLAZING | Ceilings | Walls | Floors | Basement Walls | Slab Perimeter R-Value and Depth | Crawl Space Walls |
| | U-FACTOR | | | | | | |
| | .35 | R-38 | R-19 or R13 + 5g | R-19 | R-10 | R-10, 24 inches | R-10 |

SECTION 3-28-33 SPRINKLER SYSTEMS. Delete IBC Section 903.2.7, Group R (Automatic Sprinkler Systems), and add the following:

903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout buildings having a Group R fire area where one of the following conditions exists:

- (1) A Group R fire area is located more than two stories above grade plane.
- (2) The building has more than four dwelling units, guestrooms, or combination thereof, of a Group R-1 or R-2 occupancy.
- (3) The building includes a Group R-4 fire area. For the purposes of this section, any portion of a building separated by one or more firewalls shall not be considered a separate building.

SECTION 3-28-34 FIRE ALARMS. Amend IBC Section 907.2.9 by deleting and replacing with the following:

907.2.9 Group R-2. A fire alarm system shall be installed in Group R-2 occupancies where:

- (1) Any dwelling unit is located three or more stories above the lowest level of exit discharge;
- (2) Any dwelling unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit;
- (3) The building contains 12 or more dwelling units; or
- (4) Any dwelling unit or portion thereof, is more than one story above any other dwelling unit in the same building.

Exceptions:

(a) A fire alarm system is not required in buildings not over two stories in height where all dwelling units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least one hour fire partitions and each dwelling unit has an exit directly to a public way, exit or court yard.

(b) A separate fire alarm system is not required in buildings that are equipped throughout with an approved, supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or Section 903.3.1.2 and which have a local alarm that meets the notification requirements of Section 907.9.2

For purposes of this section, firewalls shall not define separate buildings.

SECTION 3-28-35 HANDRAILS. Modify IBC Section 1009.10, Handrails, by deleting Exceptions 4 and 5, and adding the following exception:

- (1) Stairs consisting of three risers or less and serving individual dwelling Units in Group R-2 or R-3 occupancies do not require handrails.

SECTION 3-28-36 PRIVATE SEWERS AND WATER SERVICE SYSTEMS. No building permit shall be issued until the applicant has provided the Building Official a copy of the approved permit from the authorized issuing jurisdiction for a private waste water system or private water system when such requirements are applicable. This would be considered applicable when the City of Alburnett's public sanitary sewer or water service systems do not service the property. This shall also

apply to developments providing private or public community wastewater management and/or water systems working independent of the City's public sanitary and water services.

SECTION 3-28-37 EROSION CONTROL MEASURES. The applicant of a building permit shall provide and maintain erosion control measures, including but not limited to erosion control measures, that protect the City streets from silt, soil or debris collecting on the streets, entering storm sewers, public right-of-way open ditches, or any other public or private property. Additional erosion control measures shall be provided and maintained to protect any and all abutting or adjacent properties from debris, soil and silt collecting on said property.

Damages incurred by any party, due to the failure of the applicant to provide or maintain erosion control measures shall be the applicant's responsibility to restore the affected area to its original state. The Building Official or designee may provide a verbal and/or written notice of such violation to the applicant or authorized representative conducting work under the applicant's building permit. Failure to comply with the notice shall be cause for issuance of a Stop Work Order and other violations and penalties as allowed for in this code. The City of Alburnett shall assess additional charges to the applicant on a time and material basis for any work performed by the City to cleanup, correct and or restores the public property. A Certificate of Occupancy shall not be released until all fees and penalties have been satisfied.

SECTION 3-28-38 OFFICIAL COPIES. Official copies of the Building Codes as hereby adoption and the effective date thereof, are now on file in the office of the City Clerk. Copies of the Building Codes are available at the office of the Clerk, for public inspection and for sale at cost to the public.

SECTION 3-28-39 VIOLATIONS AND PENALTIES. The Alburnett Building Code is hereby amended by repealing Section 113.4 of International Building Code, 2006 Edition, and replacing said Section with the following new Section:

113.04 Violations and Penalties. Any person, firm or corporation violating any of the provisions of the Code shall be deemed guilty of a misdemeanor. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof which any violation of any provisions of this Code is committed, continued, or permitted. Upon conviction of any such violations such person shall be punished in a manner provided in Section 1.14 and/or Chapter 3 of the Code of Ordinances.

TITLE III COMMUNITY PROTECTION

CHAPTER 29

DANGEROUS BUILDINGS

| | |
|---------|---|
| 3-29-1 | Title |
| 3-29-2 | Purpose and Scope |
| 3-29-3 | Alterations, Additions and Repairs |
| 3-29-4 | Enforcement, General |
| 3-29-5 | Abatement of Dangerous Buildings |
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| 3-29-10 | Notices and Orders Rebuilding |
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| 3-29-13 | Notice to Vacate |
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| 3-29-16 | Compliance with Orders |
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| 3-29-20 | Repair or Demolition; Recovery of Costs |
| 3-29-21 | Conflict of Ordinances |

SECTION 3-29-1 TITLE. These regulations shall be known as the “Uniform Code for the Abatement of Dangerous Buildings,” may be cited as such and will be referred to herein as “this Code.”

SECTION 3-29-2 PURPOSE AND SCOPE. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by the Building Code, Housing Code or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in the City.

SECTION 3-29-3 ALTERATIONS, ADDITIONS AND REPAIRS. All buildings and structures which are required to be repaired under the provisions of this code shall be subject to the provisions of the Building Code.

SECTION 3-29-4 ENFORCEMENT, GENERAL.

(1) Administration. The Building Official is hereby authorized to enforce the provisions of this Code.

(2) Inspections. The Building Official, the Fire Inspector, and their authorized representatives, are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

(3) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Building Official or any authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Building Official or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this code, provided that if such building or premises be occupied, such official shall first present proper credentials and request entry; and if such building or premises be unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Building Official or authorized representative shall have recourse to every remedy provided by law to secure entry. When the Building Official or authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made herein provided, to promptly permit entry therein by the Building Official or authorized representative for the purpose of inspection and examination pursuant to this code. "Authorized representative" includes the officers named in subsection 2 of this section and their authorized inspection personnel.

SECTION 3-29-5 ABATEMENT OF DANGEROUS BUILDINGS. All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 10 of this chapter.

SECTION 3-29-6 VIOLATIONS. It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

SECTION 3-29-7 INSPECTION OF WORK. All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this code and of the Building Code.

SECTION 3-29-8 BOARD OF APPEALS. In order to provide for final interpretation of the provisions of this code and to hear appeals provided for hereunder, appeals may be taken to the Building Board of Appeals. The rules and regulations for conducting business and rendering decisions and findings established for the Building Board of Appeals shall apply to all appeals made under this code.

SECTION 3-29-9 DEFINITIONS.

(1) General. For the purpose of this code, terms, phrases, words and their derivatives shall be construed as specified either in this chapter or as specified in the Building Code or the Housing Code. When terms are not defined, they shall have their ordinary accepted meanings within the context in which they are used.

(a) “Building Code” means the Alburnett Building Code as set forth in Chapter 28 of this Code of Ordinances.

(b) “Dangerous building” means any building or structure deemed to be dangerous under the provisions of this Section.

(2) “Dangerous building” means any building or structure which has any or all of the conditions or defects hereinafter described, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

(a) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(b) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as not to provide safe and adequate means of exit in case of fire or panic.

(c) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

(d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

(e) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(f) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

(g) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(h) Whenever the building or structure, or any portion thereof, because of (1) dilapidation, deterioration or decay; (2) faulty construction; (3) the removal, movement or instability of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse.

(i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(j) Whenever the exterior wall or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

(k) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or covering.

(l) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to (1) become an attractive nuisance to children; (2) become a harbor for vagrants, criminals or immoral persons; or (3) as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

(m) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the City, as specified in the Building Code or the Housing Code, or of any law or ordinance of the State or City relating to the condition, location or structure of buildings.

(n) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the (1) strength, (2) fire-resisting qualities or characteristics, or (3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(o) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the Building Official or Housing Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

(p) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Inspector to be a fire hazard.

(q) Whenever any building or structure is in such condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

(r) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is

abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

SECTION 3-29-10 NOTICES AND ORDERS REBUILDINGS.

(1) Commencement of Proceedings. Whenever the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, said official shall commence proceedings to cause the repair, vacation or demolition of the building.

(2) Notice and Order. The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

(a) The street address and legal description sufficient for identification of the premises upon which the building is located.

(b) A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 3-29-9.

(c) A statement of the action required to be taken as determined by the Building Official.

(3) If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.

(4) If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.

(5) If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine is reasonable (not to exceed 60 days from the date of the order), that all required permits be secured therefore within 60 days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine is reasonable.

(6) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official (1) will order the building vacated and posted to prevent further occupancy until the work is completed, and (2) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

(7) Statements advising (1) that any person having any record title of legal interest in the building may appeal from the notice and order or any action of the Building Official to the Board of Appeals, provided the appeal is made in writing as provided in this code and filed with the Building Official within 30 days from the date of service of such notice and order; and (2) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

(8) Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or disclosed from official public records, the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; the holder of any other estate or legal interest of record in or to the building or the land on which it is located. Failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on said person by the provisions of this Section.

(9) Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his or her address as it appears on the last equalized assessment roll of the County or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the notice and order shall be mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this Section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

(10) Proof of Service. Proof of service of the notice and order shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official.

SECTION 3-29-11 RECORDING OF NOTICE AND ORDER. If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the Building Official shall file in the office of the County Recorder a certificate describing the property and certifying (1) that the building is a dangerous building and (2) that the owner has been notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the Building Official shall file a new certificate with the County Recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

SECTION 3-29-12 REPAIR, VACATION AND DEMOLITION. The following standards shall be followed by the Building Official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

(1) Any building declared a dangerous building under this order either shall be repaired in accordance with the current Building Code or shall be demolished at the option of the building owner.

(2) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

SECTION 3-29-13 NOTICE TO VACATE.

(1) Posting. Every notice to vacate shall, in addition to being served as provided in subsection Section 10(9), be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER – UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
City of Alburnett

(2) Compliance. Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued by the Building Official under subsection Section 10(9), reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code.

SECTION 3-29-14 APPEALS.

(1) Form of Appeal. Any person entitled to service under subsection Section 10(3) may appeal from any notice and order or any action of the Building Official under this code by filing at the office of the Building Official a written appeal containing:

(a) A heading in the words: “Before the Board of Appeals of the _____ of _____.”

(b) A caption reading: “Appeal of _____,” giving the names of all appellants participating in the appeal.

(c) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

(d) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

(e) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

(f) The signatures of all parties named as appellants and their official mailing addresses.

(g) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the Building Official, provided, however, that if the building or structure is in such condition as to make it

immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 13, such appeal shall be filed within 10 days from the date of service of the notice and order of the Building Official.

(2) Process of Appeal. Upon receipt of any appeal filed pursuant to this section, the Building Official shall present it at the next regular or special meeting of the Board of Appeals.

(3) Scheduling and Notice of Appeal for Hearing. As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. Such date shall not be less than 10 days or more than 60 days from the date of appeal as filed with the Building Official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

(4) Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this Section shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

(5) Scope of Hearing on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(6) Staying of Order under Appeal. Except for vacation orders made pursuant to Section 13, enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal there from which is properly and timely filed.

SECTION 3-29-15 HEARING APPEALS.

(1) Board of Appeals Action. The Building Board of Appeals by a majority vote, may sustain, modify or withdraw the notice or order. In granting an extension or variance of any notice or order, the Board shall observe the following condition: The Board may grant an extension of time for the compliance of any notice or order for not more than 18 months subject to appropriate conditions and provided that the Board makes specific findings of fact based on evidence relating to the following:

(a) That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.

(b) That such an extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety and general welfare.

(2) Form of Notice of Hearing. The notice to appellant shall be substantially in the following form but may include other information:

“You are hereby notified that a hearing will be held before the Board of Appeals at _____ on the _____ day of _____ at the hour of _____, upon the notice and order served upon you. You may present any relevant evidence and witnesses.”

(3) Conduct of Hearing; Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(4) Method and Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

(5) Effective Date of Decision. The effective date of the decision shall be as dated therein.

SECTION 3-29-16 COMPLIANCE WITH ORDERS.

(1) General. After any order of the Building Official or the Board of Appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

(2) Failure to Obey Order. If, after any order of the Building Official or Board of Appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (1) cause such person to be prosecuted under subsection 1 of this Section or (2) institute any appropriate action to abate such buildings as a public nuisance.

(3) Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

(a) The Building Official may cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING – DO NOT OCCUPY

It is a misdemeanor to occupy this building,
or to remove or deface this notice.

Building Official
City of Alburnett

(b) No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the Building Official have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code.

(c) The Building Official shall notify the City Council of the failure to commence work, and the City Council shall direct the Building Official on action to be taken. In addition to any other remedy herein provided, the Council may direct the Building Official to institute legal proceedings to cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or if the notice and order require demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris there from removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and

above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

SECTION 3-29-17 EXTENSION OF TIME TO PERFORM WORK. Upon receipt of an application from the person required to conform to the order and an agreement by such person that said person will comply with the order if allowed additional time, the Building Official may, in such official's discretion, grant an extension of time, not to exceed an additional 120 days, to complete said repair, rehabilitation or demolition, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

SECTION 3-29-18 INTERFERENCE WITH REPAIR OR DEMOLITION WORK. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

SECTION 3-29-19 PERFORMANCE OF WORK.

(1) Procedure. Any work of repair or demolition is to be done pursuant to subsection Section 16(3)(C); the Building Official shall issue an order therefore to the Director of Public Services and the work shall be accomplished by personnel of the City or by private contract under the direction of said Director. Plans and specifications therefore may be prepared by said Director, or the Director may employ such architectural and engineering assistance on a contract basis as the Director may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

(2) Costs. The cost of such work shall be paid by such City account as is appropriate by the Code of Iowa and may be made a special assessment against the property involved.

SECTION 3-29-20 REPAIR OR DEMOLITION; RECOVERY OF COST.

(1) Account of Expense, Filing of Report; Contents. The Director of Public Services shall keep an itemized account of the expenses incurred by the City in the repair or demolition of any building done pursuant to the provisions of subsection Section 16(3)(C). Upon completion of the work of repair or demolition, said Director shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addressees of the persons entitled to notice pursuant to subsection Section 10(3).

(2) Report Transmitted to Council; Setting for Hearing. Upon receipt of said report, the Clerk shall present it to the Council for consideration. The Council shall fix a time, date and place of hearing said report and any protests or objections thereto. The Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the

City, and served by certified mail, postage prepaid, addressed to the owner of the property as such owner's name and address appear on the last equalized assessment roll of the County, if such so appear, or as known to the Clerk. Such notice shall be given at least 10 days prior to the date set for hearing and shall specify the day, hour and place where the Council will hear and pass upon the Director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

(3) Protests and Objections, How Made. Any person interested in or affected by the proposed charge may file written protests or objections with the Clerk at any time prior to the time set for the hearing on the report of the Director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The Clerk shall endorse on every such protest or objection the date it was received. The Clerk shall present such protests or objections to the Council at the time set for the hearing, and no other protests or objections shall be considered.

(4) Hearing of Protests. Upon the day and hour fixed for the hearing the Council shall hear and pass upon the report of the Director together with any such objections or protests. The Council may make such revision, correction or modification in the report or the charge as it may deem just; and when the Council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the Council on the report and the charge, and on all protests or objections shall be final and conclusive.

(5) Special Assessment. If the Council orders that the charge shall be assessed against the property it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien on the property.

(6) Contest. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced upon 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from the final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

(7) Authority for Installment Payment of Assessments with Interest. The Council, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed ten equal annual installments. The Council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

(8) Lien of Assessment.

(a) Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for State, County and property taxes with which it shall be upon apatity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

(b) Interest. All such assessments remaining unpaid after 30 days from

the date of recording on the assessment roll shall become delinquent and shall bear interest at the lawful rate for special assessments.

(9) Report to Assessor and Tax Collector; Addition of Assessment to Tax Bill. After confirmation of the report, certified copies of the assessment shall be given to the Assessor and the Tax Collector acting for the City, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(10) Filing Copy of Report with County Auditor. If the County Assessor and the County Tax Collector assess property and collect taxes for the City, a certified copy of the assessment shall be filed with the County Auditor as by law provided. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year.

(11) Collection of Assessment; Penalties for Foreclosure. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment. If the Council has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

(12) Repayment of Repair. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the City Treasurer, who shall credit the same to the City.

SECTION 3-29-21 CONFLICT OF ORDINANCES. In any case where a provision of this chapter is found to be in conflict with the provision of any zoning, building, fire, safety or health ordinance or code of the City or State existing on the effective date of this chapter, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the City existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Chapter.

TITLE III COMMUNITY PROTECTION

CHAPTER 30

PROPERTY MAINTENANCE

| | |
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| 3-30-2 | Definitions |
| 3-30-3 | Authority for Enforcement |
| 3-30-4 | Interference with the Property Maintenance Official |
| 3-30-5 | Nuisances |
| 3-30-6 | Notice to Abate |
| 3-30-7 | Emergency Abatement Measures |

SECTION 3-30-1 PURPOSE. The purpose of this chapter is to designate the responsibilities of persons for maintenance of structures, equipment and exterior property within the City, to define nuisances as a result of the failure to perform such maintenance and to provide for the abatement of such nuisances in order to provide for the safety and preserve the health and welfare of the citizens of the city.

SECTION 3-30-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined:

- (1) "Blighted area" is defined as set forth in Section 403.17 of the Code of Iowa.
- (2) "Vermin" means any of various insects; bugs or small animals regarded as objectionable because they are destructive, disease carrying, etc.

SECTION 3-30-3 AUTHORITY FOR ENFORCEMENT. The Mayor shall be responsible for the enforcement of this chapter and shall have all the necessary authority to carry out such enforcement. Any person designated by the Mayor to enforce this chapter shall be known as the Property Maintenance Official.

SECTION 3-30-4 INTERFERENCE WITH THE PROPERTY MAINTENANCE OFFICIAL. No person shall interfere with the Property Maintenance Official while engaged in the enforcement of this chapter.

SECTION 3-30-5 NUISANCES. A failure to satisfy any of the following provisions shall constitute a nuisance:

- (1) General. All structures, including accessory structures (detached garages, fences and walls), equipment and exterior property, whether occupied or vacant, shall be maintained in good repair, structurally sound and sanitary condition as provided herein so as not to cause or contribute to the creation of a blighted area or adversely affect the public health or safety.

- (2) Rodent and Vermin Harborage. All structures, equipment exterior property shall be kept free from rodent and vermin harborage and infestation. Where rodents and vermin are found, they shall

be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent and vermin harborage and prevent re-infestation.

(3) Protective Treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches and trim, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight.

(4) Foundation Walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and vermin.

(5) Exterior Walls. All exterior walls shall be maintained plumb; free from cracks, holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(6) Roofs and Drainage. All roofs and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair, with proper anchorage and free from obstructions.

(7) Stairways, Decks, Porches and Balconies. Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(8) Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(9) Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(10) Basement Hatchways. Every basement hatchway shall be maintained to prevent entrance of rodents, vermin, and rain and surface drainage water.

SECTION 3-30-6 NOTICE TO ABATE. Upon discovery of any violation of Section 5, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 27 of this Code of Ordinances.

SECTION 3-30-7 EMERGENCY ABATEMENT MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the Property Maintenance Official any nuisance is an immediate and imminent threat to life and property, -the Property Maintenance Official may, with or without prior notice as required within, order the nuisance abated and costs assessed against the property for collection in the same manner as a property tax. However, prior to such assessment, the City shall give the property owner notice as provided by the Code of Iowa and this Code of Ordinances.

TITLE III COMMUNITY PROTECTION

CHAPTER 31

COMMUNICATION TOWERS AND ANTENNAS

| | |
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| 3-31-4 | Lease Required |
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SECTION 3-31-1 PURPOSE AND POLICY. The City Council for the City of Alburnett finds that in order to ensure public safety and provide efficient delivery of services by City and others wishing to utilize wireless communication technologies, to ensure the health, safety and welfare of the population, to provide for the regulation and administration and orderly location of antenna arrays and towers, and to secure the rights of the City to regulate its public property and charge a reasonable fee for use of public property, it is necessary for the City to establish uniform rules, regulation and policies. This Ordinance is to be interpreted in light of these Endings for the benefit for the citizens of Alburnett, Iowa.

SECTION 3-31-2 DEFINITIONS. As used in this Ordinance:

(1) "Antenna" shall mean a device, dish or array used to transmit or receive telecommunications signals.

(2) "Communications tower" shall mean a tower, pole or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed locations, free standing, guyed or on a building.

(3) "Height" of a communications tower is the distance for the base of the tower to the top of the structure.

(4) "Telecommunications" shall mean the electronic, telephonic, or other high-tech transmission, reception or exchange of data or information between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as

sent or received, by a means which requires the approval or licensing by the Federal Communications Commission.

SECTION 3-31-3 LOCAL REGULATION. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communication towers and antennas.

(1) To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.

(2) To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.

(3) To minimize placement of wireless equipment in highly populated residential locations will be considered as a last resort.

(4) To assure revenues from site leases of City-owned and controlled land and structures reflects fair compensation for use of City property and administration of this Ordinance.

SECTION 3-31-4 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

SECTION 3-31-5 FEE REQUIRED. No lease for the use of public, property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

SECTION 3-31-6 LIMIT ON TERM. No lease for the use of public property under this Ordinance shall be granted for a term of more than twenty-five (25) years.

SECTION 3-31-7 PLACEMENT REQUIREMENT. Priority of the use of City-owned land for communication towers and antenna towers, antennas and facilities will be given to the following entities in descending order of priority:

(1) All functions of the City of Alburnett, Iowa.

(2) Public safety agencies that are not part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.

(3) Other governmental agencies for uses which are not related to public safety.

(4) Entities providing licensed commercial communication services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.

SECTION 3-31-8 PLACEMENT REQUIREMENTS. The placement of communications towers, antennas or facilities on City-owned property must comply with the following requirements:

(1) The tower, antenna or facility will not interfere with the purpose for which the City-owned property is intended.

(2) The tower, antenna or facility will have no adverse impact on surrounding private property.

(3) The applicant will produce proof of adequate liability insurance for potential damage that could reasonably be caused to City property and facilities by the location of the towers, antennas or facilities on City property.

(4) The applicant will commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fee shall be established by the City Council and shall reflect potential expenses and risks to the City and other appropriate factors.

(5) The applicant will submit a letter of credit, performance bond or other security acceptable to the City to cover the costs of tower, antenna or facilities removal.

(6) The towers, antennas or facilities will not interfere with other uses which have a higher priority as discussed in the paragraphs above.

(7) Upon reasonable notice, the towers, antennas or facilities may be required to be removed at the user's expense.

(8) The applicant must reimburse the City for any costs which it incurs based on the presence of the applicants towers, antennas or facilities.

(9) The user must obtain all necessary and use approvals.

(10) The applicant will cooperate with the City's objective to promote collocations and, thus, limit the number of separate antenna sites requested.

SECTION 3-31-9 APPLICATION PROCESS. All applicants who wish to locate a communications tower, antenna or facilities on City-owned or private property must file with the City a completed application accompanied by a fee as set by City Council Resolution and the following documents, if applicable:

(1) One (1) copy of typical specifications for proposed structures and – antennas, including a description of the design characteristics and material to be used.

(2) A Site Plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of the proposed structures, parking, fences, landscape plan and existing land uses on adjacent property. The Site Plan is not required if the antenna is to be mounted on an approved, existing structure.

(3) A current map or update for an existing map on tile showing the locations of the applicant's antennas or facilities which are existing and proposed towers which are reflected in public records serving any property within the City.

(4) A report from a structural engineer showing the tower antenna capacity by type and number and a certification-that the tower is designed to withstand winds in accordance with ANS/EIA/TIA222, latest revision, standards.

(5) Identification of the owners of all antennas and equipment to be located on the site.

(6) Written authorization from the site owner for the application.

(7) Evidence that a valid FCC license for the proposed activity has been applied for or issued.

(8) A line of site analysis showing the potential visual and aesthetic impacts on adjacent residential districts.

(9) A written agreement to remove the tower, antenna and/or facilities within one hundred eighty (180) days after cessation of use.

(10) Additional information, as reasonably required by the City, to determine that all applicable regulations and ordinances are met.

(11) Any communications facilities located on the roof of an antenna support structure must be setback at least one (1) foot from the edge of the roof of the structure. This setback requirement shall not apply to communications facilities located above the roof of the structure, if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City, or camouflaged antennas that are mounted to the exterior of the antenna support structures below the roof but do not protrude more than twenty-four (24) inches from the side of such an antenna support structure,

SECTION 3-31-10 CONDITIONS FOR APPROVAL. Applicant must also show evidence that all of the following conditions which are applicable are met prior to approval of the application.

(1) Applicant must show that the proposed communications tower, antenna, accessory structure or facilities will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.

(2) Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicants technical design requirements without unreasonable modifications on any existing structure or tower under the control of the applicant.

(3) Applicant, for a permit in a residential district, must show that based on valid technical reasons, that the area cannot be adequately served by a facility placed in a nonresidential district.

(4) Prior to consideration of a permit for the location, on private property which must be acquired, applicant must show that available publicly-owned sites and available privately-owned sites occupied by, a compatible use are unsuitable for operation of the facility under applicable communications regulations and the applicants technical design requirements.

(5) Applicant must provide the names, addresses and telephone numbers of all owners of other towers or usable tower support structures within a half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant made diligent, but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or collocate the applicants telecommunications facilities on towers or usable antenna support structures owned by the City and other persons located within a half mile radius of the proposed tower site, or written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicants wireless communications system.

(6) Applicants must show that a new tower is designed to accommodate, additional antenna equal in number to applicants present and future requirements.

(7) Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements will be met and how they will be met.

(8) All towers and communications facilities shall be of camouflage design standards to blend into the surrounding environment or to look other than as a tower. The applicant must show, by certificate from a registered engineer, that the proposed facility will contain only equipment meeting FCC rules and must file with the City Clerk a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims to a minimum of One Million Dollars (\$1,000,000.00) in the aggregate.

(9) Land use regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage and all other general zoning district regulations, except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:

(a) Residential districts - free-standing tower with height not exceeding one hundred (100) feet is a permitted conditional use. Height exceeding one hundred (100) feet requires a special exception.

(b) Commercial districts - free-standing or guyed tower with a height –not exceeding one hundred eighty (180) feet is a permitted conditional use. Height exceeding one hundred eighty (180) feet requires a special exception.

(c) Industrial districts - free-standing or guyed tower with height not exceeding three hundred sixty (360) feet is a permitted conditional use. Height exceeding three hundred sixty (360) feet requires a special exception.

(10) A tower must be a minimum distance equal to one and one half (1 1/2) of the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines a distance equal to the district setback requirements or twenty-five (25) percent of the tower height, whichever is greater.

SECTION 3-31-11 NOISE AND EMISSION STANDARDS. No equipment shall be operated at towers or telecommunications facilities so as to produce noise in excess of applicable standards under

WAC173-60, except during emergencies or periodic routine maintenance which requires the use of a backup generator where the noise standards may be exceeded temporarily. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets FCC standards.

SECTION 3-31-12 PLACEMENT OF FACILITIES AND RELATED LEASE FEES. The placement and maintenance of communication towers, antennas and facilities on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met:

(1) Water tower or reservoir sites. The City's water tower and reservoir represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the City's water storage system increases, so does potential for contamination of the public water supply. For these reasons, the placement of communication towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met:

(a) The applicant must have written approval from the City each time access to the facility is desired. This will minimize the risk of contamination to the water supply.

(b) There is sufficient room on the structure and/or the grounds to accommodate the applicant's facilities.

(c) The presence of the facility will not increase the water tower or reservoir maintenance costs to the City.

(d) The presence of the facility will not be harmful to the health or safety of workers maintaining the water tower or reservoir.

(2) Parks. The presence of certain communications towers, antennas or facilities represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. The tower shall be prohibited in designated conservation areas. Communications towers and antennas will be considered only in the following parks after the recommendation of the Park Board and approval of the City Council:

(a) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.

(b) Commercial recreational areas and major ball fields.

(c) Park maintenance facilities.

(3) Fees. Fees for placing communications towers, antennas and/or facilities on public property shall be set by City Council Resolution.

SECTION 3-31-13 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of one hundred eighty (180) consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City, which shall have the right to request documentation and/or affidavits from the communications tower owner or operator regarding the issue of tower usage. One hundred eighty-one (181) days from the date of abandonment, without reactivating or upon completion of dismantling or removal, any special exception and/or

variance approval for the tower shall automatically expire. Upon abandonment, the owner or operator of the tower shall have an additional ninety (90) days within which to either reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower within the ninety (90) days or to dismantle and remove the tower.

SECTION 3-31-14 TERMINATION. The City Council may terminate any lease if it is determined that any one (1) of the following conditions exist:

(1) A potential user of a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.

(2) A user's frequency broadcast unreasonably interferes with other uses of higher priority, regardless of whether or not this interference, was adequately predicted in the technical analysis.

(3) A user violates any of the standards in this Ordinance or the conditions or terms of the City's Lease Agreement.

(4) Before taking action, the City will provide notice to the user of the intended termination and the reasons for it and provide an opportunity for a hearing before City Council regarding the proposed action. This procedure need not be followed in emergency situations.

SECTION 3-31-15 NEW TECHNOLOGIES. During the term of any lease, if technological advancements are made in the telecommunications field which will provide the communications tower owner/operator the opportunity to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the City Council, which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

SECTION 3-31-16 HOME RULE. This Ordinance is intended to be and shall be construed as consistent with the reservation of the local authority contained in the 25th Amendment to the Iowa Constitution granting cities home rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed, and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforced against the holder of any lease.

TITLE III COMMUNITY PROTECTION

CHAPTER 32

ABANDONED VEHICLES

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| 3-32-8 | Disposal of Totally Inoperable Vehicles |
| 3-32-9 | Proceeds From Sales |
| 3-32-10 | Duties of Demolisher |

SECTION 3-32-1 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

- (1) "Abandoned vehicle" means any of the following:
 - (a) A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle totally inoperable; or
 - (b) A vehicle that has remained illegally on public property for more than twenty-four hours; or
 - (c) A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
 - (d) A vehicle that has been legally impounded by order of the Chief of Police or County Sheriff and has not been reclaimed for a period of ten days; or
 - (e) Any vehicle parked on the street determined by the Chief of Police or County Sheriff to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

(2) "Private property" means any real property within the City which is not public property as defined in this section.

(3) "Public property" means any public right-of-way open for the purposes of vehicular travel.

(4) A "junk vehicle" means any unlicensed vehicle stored within the corporate limits of the City of Alburnett, Iowa, and which has any one of the following characteristics:

(a) Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.

(b) Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.

(c) Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.

(d) Any vehicle which contains gasoline or any other flammable fuel.

(e) Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.

(f) Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

(5) "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 shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

(6) "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

SECTION 3-32-2 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. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. 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. 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.

SECTION 3-32-3 NOTICE BY MAIL.

A police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty 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 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 notice required pursuant to this subsection. 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. 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

SECTION 3-32-4 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 the previous section. 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 the previous section.

SECTION 3-32-5 EXTENTION OF TIME. The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtain an additional five (5) days within which the motor vehicle or personal property may be reclaimed.

SECTION 3-32-6 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay the amount of towing and storage charges as established by such facility.

SECTION 3-32-7 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.

SECTION 3-32-8 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 the notification procedures if the 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 owner shall apply to the county treasurer for a junking certificate within thirty days of receipt of the certificate of authority and shall surrender the certificate of authority in lieu of the certificate of title.

SECTION 3-32-9 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.

SECTION 3-32-10 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.

TITLE III COMMUNITY PROTECTION

CHAPTER 33

SNOWMOBILES AND ATV'S

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SECTION 3-33-1 DEFINITIONS. For use within this Chapter the following terms are defined:

(1) "Snowmobile" means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice.

(Code of Iowa, Sec. 321G.1[18])

(2) "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle which not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than seven hundred fifty (750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Tow-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registrations. An operator of a two wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321G.23 and 321G.24 of the Code of Iowa.

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

SECTION 3-33-2 GENERAL REGULATIONS. No person shall operate an ATV or snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or 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.)

SECTION 3-33-3 PLACES OF OPERATION. The operators of ATV's and snowmobiles shall comply with the following restrictions as to where ATV's and snowmobiles may be operated within the City:

(1) Streets. ATV's and snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated the Council. Allowable streets are as follows:

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

- (a) Roosevelt West
- (b) North Main
- (c) Burnet Station East

(2) Exceptions. ATV's and snowmobiles may be operated on prohibited streets only under the following circumstances:

(a) Emergencies. ATV's and 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. ATV's and snowmobiles may make a direct crossing of a prohibited street provided:

(A) 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;

(B) The ATV or snowmobile is brought to a complete stop before crossing the street;

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

(D) 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. ATV's and snowmobiles shall not be operated on an operating railroad right-of-way. An ATV or 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, Section 321G.13[8])

(4) Trails. ATV's shall not be operated on snowmobile trails and snowmobiles shall not be operated on all-terrain vehicles trails except where so designated.

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

(5) Parks and Other City Land. ATV's and 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 inch.

(6) Sidewalk or Parking. ATV's and 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.

SECTION 3-33-4 HOURS OF OPERATION. No snowmobile shall be operated in the City between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) a.m. except for emergency situations or for loading and unloading from a transport trailer.

SECTION 3-33-5 NEGLIGENCE. The owner and operator of an ATV or snowmobile is liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile.
(Code of Iowa, Sec. 321G.18)

SECTION 3-33-6 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred dollars (\$200.00) or more. Either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours, in accordance with State Law.

(Code of Iowa, Sec. 321G.10)

SECTION 3-33-7 THAW BAN. Snowmobiles shall not be operated during a publicized thaw ban in area posted to prohibit such operation.

SECTION 3-33-8 DEAD MAN THROTTLE. No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

TITLE III COMMUNITY PROTECTION

CHAPTER 34

TRAFFIC CODE

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SECTION 3-34-1 DEFINITIONS. For the purpose of this Chapter, the following definitions shall apply:

(1) Business District—means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

(2) Crosswalk—shall include that portion of a street ordinarily included within the prolongation of the sidewalk lines at intersections, or any other portion of a roadway clearly indicated for pedestrians' crossing by lines or other marks on the surface.

(3) Driver—shall include every person who drives or is in actual physical control of a vehicle.

(4) Emergency Vehicle—shall include fire trucks and vehicles when responding to an emergency call, and police cars when engaged in responding to an emergency, when engaged in the pursuit of or attempting to apprehend a person who has committed a public offense or when attempting to prevent a public offense.

(5) Intersection—shall include the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(6) Motor Vehicle—shall include all self propelled vehicles and every car, bus, truck, motorcycle, motorbike, scooter, golf cart, snowmobile, tractor, or similar device except trains.

(7) Peace Officer—means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(9) Pedestrians—shall include persons who proceed on foot or occupy wheel chairs or like conveyance motivated by pedestrians.

(10) 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.

(11) School District—means territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

(12) Sidewalk—shall include that portion of a street between the curb lines adjacent to property lines ordinarily intended for the use by pedestrians.

(13) Street—shall include every street, avenue, boulevard, highway, roadway, lane, alley, square, bridge, or place laid out for the use of vehicles.

(14) Suburban District—means all other parts of the City not included in the business, school or residence districts.

(15) Traffic—shall include pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.

(16) Vehicle—shall include every motor vehicle, car, truck, bus, trailer, motorcycle, tricycle, motorbike, mini-bike, and every other device or conveyance on wheels or runners except trains.

SECTION 3-34-2 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 321.20B – Proof of security against liability.

- (2) Section 321.32 – Registration card, carried and exhibited.
- (3) Section 321.37 – Display of plates.
- (4) Section 321.38 – Plates, method of attaching, imitations prohibited.
- (5) Section 321.79 – Intent to injure.
- (6) Section 321.98 – Operation without registration.
- (7) Section 321.174 – Operators licensed.
- (8) Section 321.174A – Operation of motor vehicles with expired license.
- (9) Section 321.180 – Instruction permits.
- (10) Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
- (11) Section 321.193 – Restricted licenses.
- (12) Section 321.194 – Special minor’s licenses.
- (13) Section 321.216 – Unlawful use of license and nonoperator’s identification card.
- (14) Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
- (15) Section 321.219 – Permitting unauthorized minor to drive.
- (16) Section 321.220 – Permitting unauthorized person to drive.
- (17) Section 321.221 – Employing unlicensed chauffeur.
- (18) Section 321.222 – Renting motor vehicle to another.
- (19) Section 321.223 – License inspected.
- (20) Section 321.224 – Record kept.
- (21) Section 321.232 – Radar jamming devices; penalty.
- (22) Section 321.234A – All-terrain vehicles.
- (23) Section 321.247 – Golf cart operation on City streets.
- (24) Section 321.259 – Unauthorized signs, signals or markings.

- (25) Section 321.262 – Damage to vehicle.
- (26) Section 321.263 – Information and aid.
- (27) Section 321.264 – Striking unattended vehicle.
- (28) Section 321.265 – Striking fixtures upon a highway.
- (29) Section 321.275 – Operation of motorcycles and motorized bicycles.
- (30) Section 321.278 – Drag racing prohibited.
- (31) Section 321.288 – Control of vehicle; reduced speed.
- (32) Section 321.295 – Limitation on bridge or elevated structures.
- (33) Section 321.297 – Driving on right-hand side of roadways; exceptions.
- (34) Section 321.298 – Meeting and turning to right.
- (35) Section 321.299 – Overtaking a vehicle.
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- (41) Section 321.309 – Towing; convoys; drawbars.
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- (44) Section 321.313 – Starting parked vehicle.
- (45) Section 321.314 – When signal required.
- (46) Section 321.315 – Signal continuous.
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- (48) Section 321.317 – Signals by hand and arm or signal device.
- (49) Section 321.319 – Entering intersections from different highways.

- (50) Section 321.320 – Left turns; yielding.
- (51) Section 321.321 – Entering through highways.
- (52) Section 321.322 – Vehicles entering stop or yield intersection.
- (53) Section 321.323 – Moving vehicle backward on highway.
- (54) Section 321.324 – Operation on approach of emergency vehicles.
- (55) Section 321.329 – Duty of driver, pedestrians crossing or working on highways.
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- (61) Section 321.342 – Stop at certain railroad crossings; posting warning.
- (62) Section 321.343 – Certain vehicles must stop.
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- (67) Section 321.363 – Obstruction to driver’s view.
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- (69) Section 321.365 – Coasting prohibited.
- (70) Section 321.367 – Following fire apparatus.
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- (72) Section 321.369 – Putting debris on highway
- (73) Section 321.370 – Removing injurious material.

- (74) Section 321.371 – Clearing up wrecks.
- (75) Section 321.372 – School buses.
- (76) Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- (77) Section 321.382 – Upgrade of unsafe or improperly equipped vehicles.
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- (80) Section 321.385 – Head lamps on motor vehicles.
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- (82) Section 321.387 – Rear lamps.
- (83) Section 321.388 – Illuminating plates
- (84) Section 321.389 – Reflector requirement.
- (85) Section 321.390 – Reflector requirements.
- (86) Section 321.392 – Clearing and identification lights.
- (87) Section 321.393 – Color and mounting.
- (88) Section 321.394 – Lamp or flag on projecting load.
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- (90) Section 321.398 – Lamps on other vehicles and equipment.
- (91) Section 321.402 – Spot lamps.
- (92) Section 321.403 – Auxiliary driving lamps.
- (93) Section 321.404 – Signal lamps and signal devices.
- (94) Section 321.405 – Self-illumination.
- (95) Section 321.406 – Cowl lamps.
- (96) Section 321.408 – Back-up lamps.
- (97) Section 321.409 – Mandatory lighting equipment.
- (98) Section 321.415 – Required usage of lighting devices.

- (99) Section 321.417 – Single-beam road-lighting equipment.
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- (112) Section 321.437 – Mirrors.
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- (115) Section 321.440 – Restrictions as to tire equipment.
- (116) Section 321.441 – Metal tires prohibited.
- (117) Section 321.442 – Projections on wheels.
- (118) Section 321.444 – Safety glass.
- (119) Section 321.445 – Safety belts and safety harnesses – use required.
- (120) Section 321.446 – Child restraint devices.
- (121) Section 321.449 – Motor carrier safety regulations.
- (122) Section 321.450 – Hazardous materials transportation.

- (123) Section 321.454 – Width of vehicles.
- (124) Section 321.455 – Projecting loads on passenger vehicles.
- (125) Section 321.356 – Height of vehicles; permits.
- (126) Section 321.457 – Maximum length.
- (127) Section 321.458 – Loading beyond front.
- (128) Section 321.460 – Spilling loads on highways.
- (129) Section 321.461 – Trailers and towed vehicles.
- (130) Section 321.462 – Drawbars and safety chains.
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- (132) Section 321.465 – Weighing vehicles and removal of excess.
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SECTION 3-34-3 RESERVED.

SECTION 3-34-4 RESERVED.

SECTION 3-34-5 ESTABLISHED GRADES. The grades of streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

SECTION 3-34-6 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

SECTION 3-34-7 NAMING OF STREETS. New streets shall be assigned names in accordance with the following:

(1) Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

(2) All street name, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

SECTION 3-34-8 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

SECTION 3-34-9 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.

SECTION 3-34-10 OFFICIAL STREET NAME MAP. Streets within the City are names 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 Official Street Name Map referred to in Section 3-34-10 of the Code of Ordinances of Alburnett, Iowa.”

SECTION 3-34-11 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.

SECTION 3-34-12 AUTHORITY OF PEACE OFFICERS. The provisions of this ordinance notwithstanding, peace officers of this City are authorized to direct and control all vehicle, pedestrian or other traffic either in person or by visible or audible signals when such direction and control is required by reason of emergency, when required to enforce the provisions of this Chapter, or for heavy traffic or to safeguard pedestrians or others.

(Code of Iowa, Sec. 321.229)

SECTION 3-34-13 FAILURE TO OBEY PEACE OFFICER. Failure to obey the directions, command or signals of a peace officer while directing, regulating or controlling traffic shall constitute a violation of this ordinance.

SECTION 3-34-14 TRAFFIC ACCIDENT REPORTS. The driver of a vehicle involved in an accident within the limits of this City shall file a report as and when required by the Iowa Department of Public Safety. A copy of this report shall be filed with the Chief of Police or County Sheriff. All such reports shall be for the confidential use of the police department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

SECTION 3-34-15 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 the vehicle.

SECTION 3-34-16 PARADES REGULATED. No person shall conduct or cause any parade on any street except as provided herein:

(1) “Parade” shall mean any march or procession of people or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of people 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. Such permit shall state the date and time for the parade to be held and the streets and general route therefore. 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 a 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 fire fighters. 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.

SPEED DISTRICTS AND RESTRICTIONS

SECTION 3-34-17 GENERAL. Every driver of a motor vehicle on a street shall drive the same at a careful and prudent speed not greater nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other condition then existing, and no person shall drive a vehicle on any street at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead and follow the speed limits as follows:

(1) Business District. A speed in excess of twenty-five (25) miles per hour, unless specifically designated otherwise in this Chapter, is unlawful.

(2) Residence or School District. A speed in excess of twenty-five (25) miles per hour, unless specifically designated otherwise in this Chapter, is unlawful.

(3) Suburban District. A speed in excess of forty (40) miles per hour, unless specifically designated otherwise in this Chapter, is unlawful.

SECTION 3-34-18 SPECIAL SPEED RESTRICTIONS. Whenever the Council shall determine, upon the basis of an engineering and traffic investigation, that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and prudent at such location. The maximum speed limit upon the following streets or portions thereof described shall be as follows:

(1) Special 25 MPH speed zones. A speed in excess of twenty-five (25) miles per hour, unless specifically designated otherwise in this Chapter, is unlawful on any of the following designated streets or parts thereof or adjacent to:

(a) Reserved.

SECTION 3-34-19 MINIMUM SPEED. No person shall 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 the law.

(Code of Iowa, Sec. 321.294)

SECTION 3-34-20 EMERGENCY VEHICLES. The speed limitations set forth in this Chapter do not apply to authorized emergency vehicles when responding to emergency calls and the drivers thereof sound an audible signal, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.

SECTION 3-34-21 RESERVED.

SIGNS AND SIGNALS

SECTION 3-34-22 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The peace officer shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under State law or to guide or warn traffic. The peace officer shall keep a record of all traffic-control devices.

(Code of Iowa, Sec. 321.255)

SECTION 3-34-23 CROSSWALKS. The peace officer is hereby authorized, subject to approval of the Council by resolution, to designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks 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. 372.14(4) & 321.255)

SECTION 3-34-24 TRAFFIC LANES. The peace officer is hereby authorized to mark lanes for traffic on street placements at such places as traffic conditions required, consistent with the traffic code of the City. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

SECTION 3-34-25 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)

SECTION 3-34-26 OBEDIENCE TO TRAFFIC SIGNS AND SIGNALS. It shall be unlawful for the driver of any vehicle to disobey the instructions or signals of any official traffic control device sign or signal placed in accordance with the provisions of this Chapter unless otherwise directed by a peace officer.

SECTION 3-34-27 AUTHORITY TO MARK. The Council 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 by the State law 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.

SECTION 3-34-28 RESERVED.

SECTION 3-34-29 RESERVED.

SECTION 3-34-30 FUNERAL PROCESSIONS. It shall be unlawful for any person to obstruct the passage along any street of any funeral procession, or impede or obstruct the passage of any person attending the conveyance of a body, of any deceased person, to place of interment.

SECTION 3-34-31 PLAY STREETS. The City Council has the authority to declare any street or part thereof a play street and to place 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 the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

SECTION 3-34-32 TAMPERING WITH VEHICLE. It is unlawful for any person, either individually or in association with one or more other persons, to willfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

SECTION 3-34-33 RIGHT OF WAY – PEDESTRIANS. Where traffic control signals are not in place or in operation the driver 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 so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

USE OF PUBLIC STREET, ALLEYS AND SIDEWALKS

SECTION 3-34-34 DRIVING OR RIDING ON SIDEWALKS. It shall be unlawful for any person to drive, push or tow any motor vehicle on any public sidewalk except to cross at a driveway or street intersection. It shall be unlawful for any person to ride, lead or drive any horse on a public sidewalk except to cross at a driveway or street intersection.

SECTION 3-34-35 RESERVED.

SECTION 3-34-36 PROHIBITED 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.

SECTION 3-34-37 HITCH HIKING. No person shall stand in the traveled portion of the street for the purpose of soliciting a ride from the driver of any vehicle.

SECTION 3-34-38 RESERVED.

SECTION 3-34-39 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

SECTION 3-34-40 RESERVED.

SECTION 3-34-41 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 this Code of Ordinances.

SECTION 3-34-42 RECKLESS DRIVING. No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.
(Code of Iowa, Sec. 321.277)

SECTION 3-34-43 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:
(Code of Iowa, Sec. 321.277A)

- (1) Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
- (2) Simulating a temporary race.
- (3) Causing any wheel or wheels to unnecessarily lose contact with the ground.
- (4) Causing the vehicle to unnecessarily turn abruptly or sway.

SECTION 3-34-44 GOLF CARTS. A golf cart shall not be operated upon any city street.

PARKING, STANDING OR STOPPING, LOAD AND WEIGHT RESTRICTIONS

SECTION 3-34-45 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. 321.473 & 321E.1)

SECTION 3-34-46 PERMITS FOR EXCESS SIZE AND WEIGHT. The Council may, upon application and good cause being shown therefore, 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 City ordinance over those streets 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)

SECTION 3-34-47 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:
(Code of Iowa, Sec. 321.473&475)

- (1) None

SECTION 3-34-48 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 Council 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)

SECTION 3-34-49 TRUCK ROUTE. Truck route regulations are established as follows:

(1) Truck Routes Designated. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and non other:

(Code of Iowa, Sec. 321.473)

- (a) North Street
- (b) Main Avenue
- (c) Roosevelt Street

(2) Deliveries Off Truck Route. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over 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)

SECTION 3-34-50 STANDING OR PARKING CLOSE 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 inches of the curb or edge of the roadway except as 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)

SECTION 3-34-51 RESERVED.

SECTION 3-34-52 RESERVED.

SECTION 3-34-53 RESERVED.

SECTION 3-34-54 RESERVED.

SECTION 3-34-55 STOPPING OR PARKING IN PROHIBITED PLACES. It shall be unlawful for the operator of any vehicle to stop, stand, or park such vehicle, or for any person to park any motorcycle, snowmobile, motorized golf cart, tractor, car, truck or other vehicle in any of the following places 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:

(Code of Iowa, Sec. 321.358)

- (1) On a crosswalk.

(2) Within twenty (20) feet of the driveway entrance to the 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.

(3) Within ten (10) feet of an intersection of any street or alley.

(4) Within five (5) feet of a fire hydrant.

(5) In front of a private garage or driveway, unless occupied by a competent driver or operator.

(6) On a sidewalk.

(7) 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.

(8) 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.

(9) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

(10) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(11) 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.

(12) 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.

(13) 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.

(14) The area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

(15) 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.

SECTION 3-34-56 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

(1) Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside persons with disabilities parking spaces in accordance with the following:

(a) The state or a political subdivision of the state which provides off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons with disabilities parking spaces. However, such parking facilities having ten or more parking spaces shall set aside at least one persons with disabilities parking space.

(b) An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent during normal business hours, the entity shall provide additional persons with disabilities parking spaces as needed.

(c) An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit issued in accordance with section 321L.2 of the Iowa Code.

(d) A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

| Total Parking Spaces in Lot | Required Minimum Number of Persons with Disabilities Parking Spaces |
|--------------------------------|--|
| 10 to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 to 300 | 7 |
| 301 to 400 | 8 |
| 401 to 500 | 9 |
| 501 to 1000 | <u>2 Percent of Total</u> |
| 1001 and over | <u>20 Spaces Plus 1 for Each 100 Over 1000</u> |

(2) All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one persons with disabilities parking space as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate persons with disabilities parking spaces in the visitors' parking area in accordance with the table contained in subsection (1)(d) of this section.

(3) With respect to any on-street parking areas provided by the City within a business district shall designate not less than two percent of the total parking spaces within each business district as persons with disabilities parking spaces.

(4) Any other person may also set aside persons with disabilities parking spaces on the person's property provided each persons with disabilities parking space is clearly and prominently designated as a persons with disabilities parking space. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

(Code of Iowa, Sec. 321L.5(3e))

(5) 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 motor vehicle not displaying a persons with disabilities parking permit;

(b) Use by an operator of a motor 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 motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

SECTION 3-34-57 RESERVED.

SECTION 3-34-58 RESERVED.

SECTION 3-34-59 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

(1) Except only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any streets in the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

(2) No such vehicle shall be left unattended or parked upon any residential street or alley for a period of time longer than one (1) hour.

(3) No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. with the engine, auxiliary engine, air compressor, refrigeration equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

(4) No vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

SECTION 3-34-60 RESERVED.

SECTION 3-34-61 SNOW REMOVAL. No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. This requirement shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened. Such a ban shall be uniform application and the Mayor is directed to publicize the requirements widely, using the *Linn Newsletter*, the City newspaper, in early November of each year.

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

(1) First Offense – There will be a fine of \$50.00 the first time a vehicle is not in compliance with this ordinance.

(2) Second Offense – The vehicle will be towed at the owner’s expense. There will be a fine of \$100.00 the second time a vehicle is not in compliance with this ordinance.

(3) All costs incurred though the Linn County Sheriff’s Department and the impound procedure will be at the expense of the owner of the vehicle.

The above ordinance will refer to all vehicles illegally parked as described in this Code of Ordinances.

SECTION 3-34-62 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

(Code of Iowa, Sec. 321.236(12))

SECTION 3-34-63 RESERVED.

SECTION 3-34-64 STOP WHEN TRAFFIC IS OBSTRUCTED. When 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)

SECTION 3-34-65 RESERVED.

SECTION 3-34-66 STOP REQUIRED. Every driver of a vehicle shall stop in accordance with the following:

(Code of Iowa, Sec. 321.345)

(1) At all posted stop signs within the City of Alburnett.

SECTION 3-34-67 YIELD INTERSECTIONS. Every driver of a vehicle shall yield in accordance with the following:

(Code of Iowa, Sec. 321.249)

- (1) At all posted yield signs within the City of Alburnett.

SECTION 3-34-68 RESERVED.

SECTION 3-34-69 RESERVED.

TRAFFICE CODE ENFORCEMENT PROCEDURES

SECTION 3-34-70 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) Immediately arrest such person and take such person before a local magistrate, or
- (2) Without arresting the person, prepare in quintuplicate a combined traffic citation complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

SECTION 3-34-71 SCHEDULED VIOLATIONS. For violations of the Traffic Code which are designated by Section 805.8 of the Code of Iowa to be scheduled violations, the scheduled fine for each of these violations shall be as specified in Section 805.8 of the Code of Iowa.

(Code of Iowa, Sec. 805.6, 805.8)

SECTION 3-34-72 RESERVED.

SECTION 3-34-73 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.

SECTION 3-34-74 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

SECTION 3-34-75 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) 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.

(2) 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.

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

(4) When any vehicle is left parked for a continuous period of forty-eight (48) hours or more. If the owner is found, the owner shall be given an opportunity to removed the vehicle.

(5) 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.

TITLE III COMMUNITY PROTECTION

CHAPTER 35

REGULATION AND USE OF STREETS AND SIDEWALKS

- 3-35-1 Removal of Warning Devices
- 3-35-2 Obstructing Streets
- 3-35-3 Power to Vacate
- 3-35-4 Notice of Vacation Hearing
- 3-35-5 Findings Required
- 3-35-6 Disposal of Vacated Streets or Alleys
- 3-35-7 Disposal of Gift Limited
- 3-35-8 Placing Glass On Street or Sidewalk
- 3-35-9 Depositing Foreign Materials On Streets and Sidewalks
- 3-35-10 Playing In
- 3-35-11 Traveling On Barricaded Street or Alley
- 3-35-12 Use For Business Purposes
- 3-35-13 Washing Vehicles
- 3-35-14 Burning Prohibited
- 3-35-15 Excavations
- 3-35-16 Maintenance of Parking or Terrace
- 3-35-17 Failure To Maintain Parking or Terrace
- 3-35-18 Dumping Of Snow
- 3-35-19 Driveway Culverts

SECTION 3-35-1 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from 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)

SECTION 3-35-2 OBSTRUCTING STREETS. It shall be unlawful for any person to obstruct any street, alley, sidewalk, or other public place in any manner.

(Code of Iowa, Sec. 716.1)

SECTION 3-35-3 POWER TO VACATE. When in the judgment of the Council, it would be in the best interest of the City to vacate a street or alley or portion thereof, the Council may do so by ordinance

SECTION 3-35-4 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.

SECTION 3-35-5 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

(1) 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) The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

SECTION 3-35-6 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.

SECTION 3-35-7 DIPOSAL OF GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

SECTION 3-35-8 PLACING GLASS ON STREET OR SIDEWALK. It shall be unlawful for any person within the corporate limits of this City to throw or place in any street, sidewalk or public place within the City any broken glass, glass bottles, or other articles of glass, tacks, nails, or any other sharp pointed materials, substances or things.

SECTION 3-35-9 DEPOSITING FOREIGN MATERIALS ON STREETS AND SIDEWALKS. It shall be unlawful for any person within the corporate limits of this City to haul, carry or convey any dirt, manure, shavings, cinders, stone, sand, wood, hay, straw, ashes, trash, garbage, or other substance on, over or across any paved street or alley in any wagon or other vehicle which is so constructed as to allow any portion thereof to fall or be deposited upon any portion of such street, alley or sidewalk.

SECTION 3-35-10 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.

SECTION 3-35-11 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.

SECTION 3-35-12 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.

SECTION 3-35-13 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.

SECTION 3-35-14 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or any paved or surfaced street or alley.

SECTION 3-35-15 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

(1) No excavation shall be commenced without first obtaining a permit therefore. A written application for such permit shall be file 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) 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) Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public form 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) The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the Course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars may be filed with the City.

(5) Each applicant shall also file a certificate of insurance indication that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

(a) Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.

(b) Property Damage - \$50,000.00 per accident.

(6) Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored in the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

(7) All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

(8) Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four 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 therefore to the permit holder/property owner.

(9) All costs and expense incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

(10) A separate permit shall be required for each excavation.

(11) Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

(12) Utility companies are exempt from the permit application requirement of this section.

(13) 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.

SECTION 3-35-16 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing and picking up litter.
(Code of Iowa, Sec. 364.12(2C))

SECTION 3-35-17 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under this subsection within a reasonable time, a city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

SECTION 3-35-18 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 owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

SECTION 3-35-19 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City of the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

TITLE III COMMUNITY PROTECTION

CHAPTER 36

CURFEW FOR MINORS

- 3-36-1 Curfew
- 3-36-2 Cigarettes and Tobacco
- 3-36-3 Contributing To Delinquency

SECTION 3-36-1 CURFEW. A curfew applicable to minors is established and shall be enforced as follows:

- (1) Definitions. The following terms are defined for use in this section:
 - (a) “Curfew hours” means eleven o’clock (11:00) p.m. on any day until six o’clock (6:00) a.m. of the following day.
 - (b) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
 - (c) “Establishment” means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
 - (d) “Guardian” means:
 - (A) A person who, under court order, is the guardian of the person of a minor; or
 - (B) A public or private agency with whom a minor has been placed by a court.
 - (e) “Minor” means any person under sixteen (16) years of age.
 - (f) “Operator” means any person operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
 - (g) “Parent” means a person who is:
 - (A) A natural parent, adoptive parent or step-parent of another person; or
 - (B) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(h) “Public place” means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops, alleys, sidewalks, parks, playgrounds and vacant lots.

(i) “Remain” means:

(A) To linger or stay; or

(B) To fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

(j) “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(2) Offenses.

(a) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the City during curfew hours.

(b) A parent or guardian commits an offense if he or she knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

(c) The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(3) Defenses.

(a) It is a defense to prosecution under subsection 3 of this section that the minor was:

(A) Accompanied by the minor’s parent or guardian;

(B) On an errand at the direction of the minor’s parent or guardian, without any detour or stop;

(C) In a motor vehicle involved in interstate travel;

(D) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;

(E) Involved in an emergency;

(F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(G) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or other similar entity that takes responsibility for the minor;

(H) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(I) Married or previously married or if said minor had disabilities of minority removed in accordance with lawful authority of the State.

(b) It is a defense to prosecution under subsection 2(C) of this section that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(4) Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection 3 of this section is present.

SECTION 3-36-2 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

SECTION 3-36-3 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.

TITLE III COMMUNITY PROTECTION

CHAPTER 37

LICENSING AND REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS AND PROVIDING PENALTIES FOR VIOLATIONS

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SECTION 3-37-1 PURPOSE. This 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.

SECTION 3-37-2 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of transient merchant in the City without first obtaining a permit as herein provided shall be in violation of this ordinance.

(Code of Iowa, Sec. 9C.2)

SECTION 3-37-3 DEFINITIONS. For use within this ordinance the following terms are defined:

(1) Peddler is 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 is any person who solicits or attempts to solicit from house to house or upon the public street an order for goods or merchandise to be delivered at a future date.

(3) Transient Merchant is any person, firm or corporation 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. 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 shall not exempt any person, firm or corporation from being considered as a transient merchant.

SECTION 3-37-4 APPLICATION FOR PERMIT. Sworn application in writing shall be filed with the City Clerk for a permit under this ordinance. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, social security number and drivers license number, and the license plate number of any vehicle or vehicles that will be used by the applicant. The application shall also set forth the applicant's employer, if any, and the employers address and 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 permit.

SECTION 3-37-5 LICENSE FEES. The following section is reserved.

SECTION 3-37-6 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.

SECTION 3-37-7 ISSUANCE OF PERMIT. If the City 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.

SECTION 3-37-8 DISPLAY OF PERMIT. Each permittee shall at all times while doing business in this City keep in his possession the permit provided for in this ordinance and shall upon the request of prospective customers, or officials, exhibit the permit as evidence that he has complied with all requirements of this ordinance. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

SECTION 3-37-9 PERMIT NOT TRANSFERABLE. Permits issued under the provisions of this ordinance are not transferable in any situation and are to be applicable only to the person filing the application.

SECTION 3-37-10 REVOCATION OF PERMIT. The City Clerk, after hearing and notice may revoke any permit issued under this ordinance where the permittee in the application for the permit or in the course of conducting his business has made fraudulent or incorrect statements, or has violated this ordinance, or has otherwise conducted his business in an unlawful manner.

SECTION 3-37-11 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.

SECTION 3-37-12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

SECTION 3-37-13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

SECTION 3-37-14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefore. 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.

SECTION 3-37-15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

SECTION 3-37-16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

SECTION 3-37-17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

- (1) Persons delivering, collecting for or selling subscriptions to newspapers.
- (2) Members of local and civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
- (3) Local residents and farmers who offer for sale their own products.
- (4) Students representing the Alburnett Community School District conducting projects sponsored by organizations recognized by the school.
- (5) Route delivery persons who only incidentally solicit additional business or make special sales.
- (6) Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
- (7) Bona fide charitable and non-profit organizations

SECTION 3-37-18 RESERVED.

SECTION 3-37-19 TIME RESTRICTIONS. Peddling in the City of Alburnett, Iowa shall only be in effect between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m.

TITLE III COMMUNITY PROTECTION

CHAPTER 38

BUILDING MOVERS

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SECTION 3-38-1 BUILDING MOVER DEFINED. A “building mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

SECTION 3-38-2 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of building mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Building of less than one hundred (100) square feet are exempt from the provisions of this chapter.

SECTION 3-38-3 APPLICATION. Application for a building mover’s permit shall be made in writing to the Clerk. The application shall include:

(1) The applicant’s full name and address and if a corporation the names and addresses of its principle officers.

(2) An accurate description of the present location and future site of the building or similar structure to be moved.

(3) A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

SECTION 3-38-4 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.

SECTION 3-38-5 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

- (1) Bodily Injury - \$500,000 per person; \$1,000,000 per accident.
- (2) Property Damage - \$500,000 per accident.

SECTION 3-38-6 PERMIT FEE. A permit fee of ten dollars (\$10.00) 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.

SECTION 3-38-7 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.

SECTION 3-38-8 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 flagmen 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.

SECTION 3-38-9 TIME LIMIT. No building 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.

SECTION 3-38-10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 3-38-9 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.

SECTION 3-38-11 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.

SECTION 3-38-12 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.

TITLE III COMMUNITY PROTECTION

CHAPTER 39

CIGARETTE LICENSE

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| 3-39-9 | Self-Service Sales Prohibited |
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SECTION 3-39-1 DEFINITIONS. For use in this ordinance the following terms are defined:

(1) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and irrespective of being flavored, adulterated, or mixed with any other ingredient. It also shall mean cigarette papers, wrappers and tubes. It shall not include cigars.

(Code of Iowa, Sec. 453A.1(3))

(2) “Retailer” means every individual, firm, corporation, or other association that sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption cigarettes, irrespective of the quantity or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(21))

(3) “Place of Business” shall mean any building or structure in which cigarettes are sold, or are kept for the purpose of sale, by a retailer.

(Code of Iowa, Sec. 453A.1(19))

(4) “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

(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.

SECTION 3-39-2 PERMIT REQUIRED. No retailer shall distribute, sell or solicit the sale of any cigarettes within the City of Alburnett, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13)

SECTION 3-39-3 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filled 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.

SECTION 3-39-4 ISSUANCE. The Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk.

(Code of Iowa, Sec. 453A.13(2)(a))

SECTION 3-39-5 EXPIRATION. Permits expire on June 30 of each year.

(Code of Iowa, Sec. 453A.13(3))

SECTION 3-39-6 FEES. The fee for permits issued or renewed effective for July, August or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February, or March \$37.50. and in April, May, or June \$18.75

(Code of Iowa, Sec. 453A.13(3))

SECTION 3-39-7 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December for \$37.50; or in January, February, or March for \$18.75.

(Code of Iowa, Sec. 453A.13(4)(a))

SECTION 3-39-8 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

(1) For a first violation, the violator 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 (2) years, the violator's permit shall be suspended for a period of thirty (30) days.

(3) For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.

(4) For a fourth violation within a period of five (5) years, the violator'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.

SECTION 3-39-9 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except as provided in section 453A.36, subsection 6 of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

SECTION 3-39-10 REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may 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, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

(Code of Iowa, Sec. 453A.22)

TITLE III COMMUNITY PROTECTION

CHAPTER 40

LIQUOR LICENSES AND WINE AND BEER PERMITS

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SECTION 3-40-1 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.

SECTION 3-40-2 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 license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

SECTION 3-40-3 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 which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

SECTION 3-40-4 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.

SECTION 3-40-5 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) A person shall not sell, dispense, or give to an intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

(2) Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling

alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of eight a.m. on Sunday and two a.m. on 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 eight o'clock a.m. on Sunday and two o'clock a.m. on Sunday and two o'clock on the following Monday when that Sunday is the day before New Year's Day.

(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

(4) Employ a person under eighteen years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(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.

(6) Knowingly permit any gambling, except in accordance with Code of Iowa chapter 99B, 99D, 99F, or 99G, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(7) Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(8) Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the division, and except mixed drinks or cocktails mixed on the premises for immediate consumption. This prohibition does not apply to common carriers holding a class "D" liquor control

(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 which has been so reused or adulterated.

(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 which is designed for the transporting of such beverages, except as permitted in Section 3-40-5

(11) 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.

(12) Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

TITLE III COMMUNITY PROTECTION

CHAPTER 41

MOWING OF PROPERTIES

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| 3-41-6 | Penalty |
| 3-41-7 | Method of Service and Billing |

SECTION 3-41-1 PURPOSE. The purpose of this chapter is to facilitate the health, safety and welfare of the residents of Alburnett by requiring yards and properties to be properly mowed.

SECTION 3-41-2 DENSE GROWTH. Dense growth of all weeds, vines, brush or other vegetation in the City constitutes a health, safety and/or fire hazard. For purposes of this Chapter, “dense growth” shall be defined as any vegetation exceeding eight inches (8”) in length.

SECTION 3-41-3 EXCEPTIONS. The following are excepted from the definition of “dense growth”:

(1) Waterways and ground within 2 feet of the same, except that any growth of weeds, vines or brush shall be cut or destroyed when such growth exceeds two feet (2’) in height.

(2) Farm crops, pasture and garden plants grown or located on private property may exceed the requirements of this Chapter. However, weeds and brush in such areas shall be cut when the height of such weeds or brush exceeds two feet (2’) in height.

(3) The owner of a hillside, waterway or gully located on private property may make an application to the City Council to exceed the requirements of this Chapter for the hillside, waterway or gully located on private property; and, upon receipt of such an application, the City Council shall make a finding whether or not the hillside, waterway or gully located on private property may be maintained at a level that exceeds the requirements of this Chapter but does not create a public health, safety or fire hazard; and, if the City Council makes such a finding, the Council may, by motion, grant relief to the property owner from the requirements of this Chapter and may establish a level of maintenance for the property that does not constitute a health, safety or fire hazard.

(4) A copy of the application to exceed the requirements of this Chapter shall be mailed by regular U.S. Mail by the City Clerk to all property owners whose property abuts the property that is the subject of the application not less than seven (7) days prior to the City Council meeting at which the application is acted on by the City Council.

SECTION 3-41-4 APPEAL PROCESS. A property owner or abutting property owner who is aggrieved by the action of the City Council under this Chapter shall have the right to appeal the action

of the City Council to the District Courts if that appeal is made within thirty (30) days of the action of the City Council upon the application. If the appeal is not filed within thirty (30) days of the action of the City Council, then the applicant and the abutting property owner shall have waived all right of appeal of the action of the City Council.

SECTION 3-41-5 MOWING OF PROPERTIES. Any property within the City of Alburnett, whether vacated or non-vacated, is required to be mowed anytime the vegetation reaches a height of more than eight (8) inches by the 15th day of the month in May, June, July, August, September and October of each year, unless excepted pursuant to Section 3-41-3.

SECTION 3-41-6 PENALTY. Any property which is not mowed by the above dates may be mowed by the City or their agents, and a charge of \$75.00 per hour (with a minimum of one hour and any additional time over the first hour will be billed in half hour increments), plus a surcharge of \$100 for such mowing will be charged to the property owner. Any property owner who does not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

SECTION 3-41-7 METHOD OF SERVICE AND BILLING. Annual publication of this Chapter will serve as notice to property owners. Any billings for mowing done by the City or its agents are to be sent by regular mail and are payable within 30 days of the billing date.

TITLE III COMMUNITY PROTECTION

CHAPTER 42

SPECIAL EVENTS (Approved 8/8/13)

| | |
|--------|-----------------------------------|
| 3-42-1 | Permit Required |
| 3-42-2 | Application |
| 3-42-3 | Other Permits & Licenses Required |
| 3-42-4 | Authority of Council |
| 3-42-5 | Penalty |

SECTION 3-42-1 PERMIT REQUIRED. A special Event Permit Application is required for events on public or private property with 200 or more people at any one time that have one or more of the following:

- (a) Partial or full closure of a public street
- (b) Blocking or restricting access to private property of others or blocking or restricting access to a public street
- (c) Use of pyrotechnics or special effects ,
- (d) Use of open flame or other potentially dangerous displays
- (e) Sale or distribution of merchandise, food or beverages including alcoholic beverages
- (f) Erection of a tent over 400 sq ft or canopy over 700 sq ft.
- (g) Installation of a stage, band shell, truck, trailer, van, portable building, booth, grandstand or bleachers
- (h) Placement of portable toilets
- (i) Placement of temporary signs or banners
- (j) Amplified sound

SECTION 3-42-2 APPLICATION. A completed application on forms furnished by the City of Alburnett shall be filed with the City Clerk at least 30 days prior to the event requiring the Special Event Permit.

SECTION 3-42-3 OTHER PERMITS & LICENSES REQUIRED. All sponsor, applicants, and vendors shall obtain and maintain all necessary permits and licenses required for the event, as required elsewhere in the Municipal Code or by law.

SECTION 3-42-4 AUTHORITY OF COUNCIL. The Alburnett City Council has the authority to accept or reject events and to terminate or suspend an event which is in violation of this chapter and regulations for Special Events as adopted from time to time by resolution of the City Council. In addition the City Council has the right to deny or delay a Special Event Permit if sufficient time has not been allowed for the approval process. The City shall have the authority to revoke a Special Event Permit by reason of disaster, public riot or other public safety emergency, or violations to local, State and Federal requirements.

SECTION 3-42-5 PENALTY. A violation of this chapter is a municipal infraction subject to the provisions of Chapter 26 of the Municipal Code. This ordinance shall be in full force and effect after its passage and publication as law provided.

TITLE III COMMUNITY PROTECTION

CHAPTER 43

RESERVED

TITLE III COMMUNITY PROTECTION

CHAPTER 44

RESERVED

TITLE III COMMUNITY PROTECTION

CHAPTER 45

RESERVED