

CODE OF ORDINANCES

OF THE

CITY OF

ALBURNETT, IOWA

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**CODE OF ORDINANCES
OF THE
CITY OF ALBURNETT, IOWA**

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SUPPLEMENT RECORD

[illegible]

CODE OF ORDINANCES CITY OF ALBURNETT, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title	1.08 Amendments
1.02 Definitions	1.09 Catchlines and Notes
1.03 City Powers	1.10 Altering Code
1.04 Indemnity	1.11 Severability
1.05 Personal Injuries	1.12 Warrants
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1.07 Extension of Authority	1.14 Standard Penalty

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

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined in the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision. Other words and phrases used herein have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances or unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision:

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the city of Alburnett, Iowa.
3. "Clerk" means the city clerk of Alburnett, Iowa.
4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. "Code of Ordinances" means the Code of Ordinances of the City of Alburnett, Iowa.
6. "Council" means the city council of Alburnett, Iowa.
7. "County" means Linn County, Iowa.
8. "IAC" means the Iowa Administrative Code.
9. "May" confers a power.
10. "Measure" means an ordinance, amendment, resolution, or motion.
11. "Must" states a requirement.
12. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
13. "Ordinances" means the ordinances of the City of Alburnett, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

15. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

16. "Shall" imposes a duty.

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

18. "State" means the State of Iowa.

19. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.

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

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

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for any injury to or death of any person or persons whomsoever, and any loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly, or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees, or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents, and employees, and agrees to save them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury, or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City, whether expressly recited therein or not.

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear

and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

1.06 RULES OF CONSTRUCTION. In the construction of this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the *Code of Iowa* shall be utilized to ascertain the intent of the Council, with the understanding that the term “statute” as used therein will be deemed to be synonymous with the term “ordinance” when applied to this Code of Ordinances.

1.07 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate, or a duly authorized designee of said officer or employee.

1.08 AMENDMENTS. All ordinances that amend, repeal, or in any manner affect this Code of Ordinances shall include proper reference to chapter, section, subsection, or paragraph to maintain an orderly codification of ordinances of the City.

(Code of Iowa, Sec. 380.2)

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

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

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board, or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny, or revoke any

matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.^{1†}

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

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^{1†} **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3.

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers

2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Alburnett, Iowa.

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1[3])

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

3.01 MUNICIPAL INFRACTION. A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a municipal infraction punishable by civil penalty as provided herein.^{2†}

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First offense – not to exceed \$750.00
 - B. Each repeat offense – not to exceed \$1,000.00Each day that a violation occurs or is permitted to exist constitutes a repeat offense.
2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than \$1,000.00 for each day a violation exists or continues.

^{2†} **EDITOR'S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.22[9])

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

(Code of Iowa, Sec. 364.22[12])

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Powers and Duties
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings

5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts
5.12 Fraud

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

(Code of Iowa, Sec. 64.24[1a] and [3])

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

5.12 FRAUD. Any City employee or elected official shall be prosecuted to the full extent of the law if convicted of any theft or fraud against the City.

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.
(545 IAC 2.5[2])

4. Debt Service Fund. Except where specifically prohibited by State law, moneys may be transferred from any other City fund to the Debt Service Fund to meet payments of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.
(545 IAC 2.5[3])

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.
(545 IAC 2.5[4])

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

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

(545 IAC 2.5[5])

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

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

- 1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
- 2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
- 3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.
- 4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

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

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

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

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

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

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

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

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

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

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

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

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

of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: the Mayor, Mayor Pro Tem, or the Clerk, following Council approval, except as provided by Subsection 5 hereof.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 10

URBAN RENEWAL

10.01 PURPOSE. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Urban Renewal Areas of the City each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of the ordinances codified in this chapter in order to create a special fund to pay the principal of and interest on loans, advances or indebtedness, including bonds proposed to be issued by the City, to finance projects in such areas.

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
03-01	September 8, 2003	Alburnett Urban Renewal Area
6-69-4	February 12, 2015	Alburnett Housing Urban Renewal Area
6-69-5	April 9, 2015	Alburnett Housing Urban Renewal Area (2015 TIF District)
---	August 22, 2019	Alburnett Urban Renewal Area

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting
15.06 Attendance at Council Meetings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem

15.04 COMPENSATION. The salary of the Mayor is \$2500.00 per year, paid monthly.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

15.06 ATTENDANCE AT COUNCIL MEETINGS. The Mayor and Council members are required to attend two-thirds of all Council meetings or not miss more than three consecutive meetings. To be considered in attendance the Mayor or Council member must be in attendance for one-half of the meeting time. Failure to meet this requirement is grounds for removal from office.

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.05 Appointments
17.06 Compensation
17.07 Attendance at Council Meetings

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The regular meetings of the Council are on the second Thursday of each month at 7:00 p.m., at City Hall. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as determined by the Council.

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

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. Planning and Zoning Commission
4. Board of Adjustment

17.06 COMPENSATION. The salary of each Council member shall be \$20.00 for each regular and special council meeting attended, and shall be paid monthly.

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

17.07 ATTENDANCE AT COUNCIL MEETINGS. See section 15.06 for City requirements.

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CHAPTER 18

CITY CLERK

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

18.08 Records
18.09 Attendance at Meetings
18.10 Licenses and Permits
18.11 Notification of Appointments
18.12 Elections
18.13 City Seal

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

City Hall
Post Office
Lefty's Convenience Store

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than 10 days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the 10 days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

18.09 ATTENDANCE AT MEETINGS. The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of committees, boards,

and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. The Council has contracted with the County Sheriff through a 28E Agreement to provide law enforcement services within the City. The Sheriff shall exercise the powers and duties of Police Chief and Deputy Sheriffs shall exercise the powers and duties of peace officers as provided by law, this Code of Ordinances, and the 28E Agreement. Unless terminated by either party, the 28E Agreement shall be renewed automatically for successive terms of two years from the effective date.

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

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Constitution
35.04 Approved by Council
35.05 Training
35.06 Compensation
35.07 Election of Officers

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

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

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

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

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.
3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.
(Code of Iowa, Sec. 102.2)
4. Control of Scenes. Prohibit an individual, vehicle, or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel, or individual that may impede or interfere with the operation of the Fire Department.
(Code of Iowa, Sec. 102.2)
5. Authority to Barricade. When in charge of a fire scene, place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the firefighting efforts of the Fire Department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.
(Code of Iowa, Sec. 102.3)
6. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the Fire Department. The members of the Fire Department shall, at all times, be subject to the direction of the Fire Chief.
7. Property. Make recommendations to Council regarding the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the Fire Department.
8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.
(Code of Iowa, Sec. 100.2 and 100.3)
9. Right of Entry. Have the right, during reasonable hours, to enter any building or premises within the Fire Chief's jurisdiction for the purpose of making such investigation or inspection that under law or ordinance may be necessary to be made and that is reasonably necessary to protect the public health, safety, and welfare.
(Code of Iowa, Sec. 100.12)
10. Recommendation. Make such recommendations to owners, occupants, caretakers, or managers of buildings necessary to eliminate fire hazards.
(Code of Iowa, Sec. 100.13)
11. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing, and reporting data pertaining to fires.
12. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause, and location, and an analysis of losses by value, type, and location of buildings.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible

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

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

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

36.05 NOTIFICATIONS.

1. Any responsible person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall immediately notify the Iowa Department of Natural Resources and local law enforcement officials of the occurrence of the hazardous conditions.
2. Any person who discovers a hazardous condition shall immediately notify local law enforcement officials.

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

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

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CHAPTER 37

DISASTER RECOVERY

37.01 ORDINANCE ADOPTED. The City has adopted by reference the Linn County Disaster Recovery and Reconstruction Ordinance.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct
40.04 Failure to Disperse

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

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

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

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

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

An act described in Subsections 1 and 2 shall not be an assault under the following circumstances:

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

41.07 REMOVAL OF AN OFFICER’S COMMUNICATION OR CONTROL DEVICE.

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.

2. No person shall intentionally discharge a firearm in a reckless manner.

41.12 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

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

41.13 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building,

including but not limited to the wall, floor, hallway, steps, stairway, doorway, or window thereof, or onto any public or private land.

41.14 FIREWORKS. 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 |

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

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

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

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

42.05 Fraud
42.06 Theft
42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein

anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
2. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles
45.04 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

3. A person shall not simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a

prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(50) and (51) of this Code of Ordinances.]*

45.04 SOCIAL HOST. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of 18, to consume or possess on such property any alcoholic beverage. The provisions of this Section shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:

A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury, or loss of life.

B. “Knowingly” means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

C. “Minor” means any unemancipated person under the age of 18 years.

D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 6:00 a.m. of the following day on days commencing on Sunday,

Monday, Tuesday, Wednesday and Thursday and between the hours of 12:00 a.m. and 5:00 a.m. on Friday and Saturday.

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

- A. The minor is accompanied by a responsible adult.
- B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
- C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor's place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
- D. The minor is on an emergency errand for a responsible adult;
- E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

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

5. Enforcement Procedures.

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

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

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor

shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

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

6. Penalties.

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

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

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

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Parks Closed

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 12:00 a.m. and 5:00 a.m.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited

50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

50.01 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED. The following subsections include, but do not limit, the conditions that are deemed to be nuisances in the City:

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
4. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
5. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
6. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, tires, bones, and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
7. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
8. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. **(See also Chapter 53)**
9. **Dead or Diseased Trees.** Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees. **(See also Chapter 151)**
10. **Houses of Ill Fame.** Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled

substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Mowing of Properties (**See Chapter 53**)
3. Storage and Disposal of Solid Waste (**See Chapter 105**)
4. Dangerous Buildings (**See Chapter 145**)
5. Trees (**See Chapter 151**)
6. Construction and Repair of Buildings (**See Chapter 155**)

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: ^{3†}
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

^{3†} **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

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

3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.

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

5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

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

6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

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

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the

Code of Iowa. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

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

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

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

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CHAPTER 52

NOISE AND NOISE LIMITS

52.01 Definitions

52.02 Noise Prohibitions and Limited Sound Sources

52.03 Enforcement

52.04 Permits to Exceed Limits

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

1. “A-weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.
2. “Business” or “business district” means any property which is zoned for any business use as defined in the Zoning Ordinance.
3. “Construction equipment” means the implements used in an operation or activity needed to build, to repair, or to erect.
4. “Decibel” means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
5. “Exhaust system” means the device or combination of devices that collects the exhaust from the engine or motor, delivers the exhaust to the atmosphere and reduces the noise emissions. “Exhaust system” includes manifold or headers, exhaust pipe, muffler, and tail pipe.
6. “Farm equipment” means the implements used in an operation or activity, or everything except personnel needed for cultivation or production of crops of any nature, or raising of any type of animal embraced within the term “livestock.”
7. “Gross vehicle weight rating” means the value specified by the manufacturer as the recommended maximum weighted load of a single motor vehicle. When trailers and tractors are separable, the gross combination weight rating is the value specified by the manufacturer as the recommended maximum loaded weight of the combined vehicle.
8. “Industrial” or “industrial district” means any property zoned for any industrial use as defined in the Zoning Ordinance.
9. “Motor vehicle” means every vehicle which is self-propelled.
10. “Noise disturbance” for purposes of this chapter, means any transmission of sound across a real property boundary from a source specifically limited by this chapter, which exceeds the sound level limits set forth in Table 1 entitled *Maximum Permissible Sound Levels From Limited Sources by Receiving Land Use*.
11. “Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
12. “Receiving land use” means, for purposes of this chapter, the use or occupancy of the property which receives the transmission of sound.
13. “Residential” or “residential district” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
14. “Sound level meter” means an instrument used to measure sound pressure.

15. "Sound level" means the weighted sound pressure level contained by the use of the sound level meter and A-weighting network, such as a, b, or c as specified in *American National Standards Institute Specifications for Sound Level Meters*, ANSI S1.4-1971. If the frequency weighting employed is not indicated, the A-weighting shall apply.

16. "Sound pressure level" means 20 times the logarithm to the base 10 of the ratio of the root mean squared sound pressure to the reference pressure of 20 micropascals.

17. "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

18. "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces which cause compression and rarefaction of that medium. The description of sound may include any characteristic of sound, including duration, density, and frequency.

19. "Used" or "occupied," for purposes of this chapter, where either word appears, shall be deemed to include the words "intended, designed, or arranged to be used or occupied."

TABLE 1		
Maximum Permissible Sound Levels From Limited Sources By Receiving Land Use		
Zoning Category of Receiving Land Use	Legal Time	Sound Level Limit (dBA)
Residence District R-1, R-2, R-3, M-1	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	50
Business District	At all times	65
Industrial District I-1	At all times	75

52.02 NOISE PROHIBITIONS AND LIMITED SOUND SOURCES. The following sound sources are limited by this chapter:

1. No person shall perform, create, cause or permit a radio, television set, musical instrument or any other device to produce, reproduce or amplify sound to create a noise which is audible at a distance of 200 feet from such device when operated on or in a motor vehicle.

2. No person shall operate a motor vehicle radio or other equipment to emit sound through a motor vehicle radio or other sound system if the sound emitted is plainly audible for more than 200 feet from the vehicle.

3. Every motor vehicle must at all times be equipped with a muffler and exhaust system in good working order and in constant operation to prevent excessive noise or annoying smoke.

4. The following constitutes evidence of rebuttable presumption of a violation of this section:

A. The use of a muffler cutout, bypass, non-original equipment exhaust system without a muffler, or other similar device upon a motor vehicle upon a street;

B. Equipment marked with either "off road use" or "not for street use";

C. Excessive revving and/or acceleration which can be heard at a distance of at least 200 feet; or

D. The operation of a vehicle making excessive noise so as to be audible at a distance of at least 200 feet from the motor vehicle.

5. Radios, Televisions, Etc. No person shall operate, play or permit the operation or playing of any radio, television, drum or musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound at a sound level which creates a noise disturbance. Church or clock carillons, bells or chimes, parades or processions (provided the conditions of the permit are met), mobile radio or telephone signal devices and sanctioned racing events are all excepted from the provisions of this subsection.

6. Lawn Equipment. No person shall use or operate or permit the use or operation of a power lawn mower, power trimmer, leaf blower, leaf vacuum, garden tiller or other gasoline or electric-powered device intended for mowing, trimming or working on a lawn or garden between the hours of 10:00 p.m. and 7:00 a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter. No person shall use or operate or permit the use or operation of a gasoline-powered lawn or garden equipment which does not have a muffler if such use or operation creates a noise disturbance as defined by this chapter.

7. Chain Saws. No person shall use or operate or permit the use or operation of a power chain saw between the hours of 10:00 p.m. and 7:00 a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

8. Official vehicles, including but not limited to, governmental, law enforcement and Fire Department equipment, public utility company equipment, railroad company equipment and emergency vehicles such as ambulances and helicopters are exempt from the provisions of this chapter.

9. Construction Equipment. The operation of construction equipment between the hours of 7:00 a.m. to 10:00 p.m. shall not be subject to the limitations set out in Table 1 of this chapter. However, no person shall use or operate or permit the use or operation of construction equipment between the hours of 10:00 p.m. and 7:00 a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

10. Exempt Equipment. Persons operating the following equipment are exempt from the provisions of this chapter: farm equipment, snow blowers, and snow plows.

11. Portland Cement Concrete Joint Sawing Equipment. A contractor performing duties in connection with an approved subdivision plan or a City public improvement project may perform necessary joint sawing of pavement upon approval of the City and shall be exempt from this chapter.

52.03 ENFORCEMENT.

1. The provisions of this chapter which prohibit the making, continuing, or causing the making or continuance of a noise disturbance shall be enforced only upon receipt of a complaint made or filed with City officials by a person disturbed by such noise disturbance, with the exception of violations of Section 52.02(1), (2), (3), and (4). Certification by an official charged with enforcement of the provisions of this chapter that such complaint was made shall be sufficient to establish a rebuttable presumption that a violation of this statute has occurred.

2. Peace officers may enforce violations of this chapter without necessity of such complaint. The following scheduled fines are fixed for violations of Section 52.02(1), (2), (3), or (4):

Each Offense

\$100.00

52.04 PERMITS TO EXCEED LIMITS. The Council, on written application, for good cause shown, may grant a special permit to exceed the sound and/or time limits established in Section 52.01 for specific activities generally or for limited times and/or dates provided that the sound level does not exceed 75 dBA at the receiving land use.

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CHAPTER 53

MOWING OF PROPERTIES

53.01 Purpose
53.02 Dense Growth
53.03 Exceptions
53.04 Appeal Process

53.05 Mowing of Properties
53.06 Penalty
53.07 Method of Service and Billing

53.01 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.

53.02 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 in length.

53.03 EXCEPTIONS. The following are excepted from the definition of “dense growth”:

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

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 days prior to the City Council meeting at which the application is acted on by the City Council.

53.04 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 30 days of the action of the City Council upon the application. If the appeal is not filed within 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.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.13 At Large: Impoundment
55.02 Animal Neglect	55.14 Disposition of Animals
55.03 Livestock Neglect	55.15 Impounding Costs
55.04 Abandonment of Cats and Dogs	55.16 Pet Awards Prohibited
55.05 Livestock	55.17 Tampering With a Rabies Vaccination Tag
55.06 At Large Prohibited	55.18 Tampering With an Electronic Handling Device
55.07 Damage or Interference	55.19 Unhealthful or Unsanitary Conditions
55.08 Annoyance or Disturbance	55.20 Tethering of Animals
55.09 Vicious Animals	55.21 Animals in Parks
55.10 Rabies Vaccination	55.22 Confinement of Female Animals in Heat
55.11 Owner's Duty	55.23 Dangerous Domestic Animals
55.12 Confinement	55.24 Animal Shelter and City Veterinarian

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

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

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

2. "Animal" means a nonhuman vertebrate.

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

3. "Animal shelter" means any premises designated by the Council for the proper care of impounded animals.

4. "At large" means off the premises of the animal's owner, unless:

A. The animal is on a leash, cord, chain, or similar restraint not more than six feet in length and under the control of a competent person, or

B. The animal is within a motor vehicle, or

C. The animal is housed within a veterinary hospital, licensed kennel, pet shop, or police vehicle.

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

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

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

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

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

6. "Cat" means any member of any breed of the domesticated feline species, male or female, neutered or unneutered.

7. "Chicken" means a member of the subspecies *Gallus gallus domesticus*, a domesticated fowl.

8. "City Veterinarian" means a person licensed to practice veterinarian medicine, surgery, and dentistry in the State, designated by the City from time to time as the City Veterinarian/Animal Control Officer or Representative.

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

(Code of Iowa, Sec. 717.B1)

10. “Dangerous domestic animal” means any of the following:

A. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so;

B. Any animal declared to be dangerous by the Council;

C. The following animals, which are deemed to be dangerous animals per se:

(1) Badgers, wolverines, weasels, skunks, and mink.

(2) Raccoons.

(3) Bats.

(3) Scorpions.

(4) Opossums.

(5) Piranhas.

11. “Dog” means any member of the canine species, male or female, neutered or unneutered.

12. “Fair”:

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

A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

13. “Fowl” means any bird that is domesticated and kept for any purpose.

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

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

15. “In heat” means a female animal during the active state of estrus.

16. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.

(Code of Iowa, Sec. 717.B1)

17. “Licensed kennel” or “licensed kenneling” means any place where four or more dogs whose ages are six months or older are kept for any licensed purpose.

18. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.

(Code of Iowa, Sec. 717.1)

19. “Owner” means any person owning, keeping, sheltering, or harboring an animal.

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

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

21. “Pet shop” means any business established for the purpose of breeding, buying, selling, or boarding of animals.

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

(Code of Iowa, Sec. 162.2)

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

(Code of Iowa, Sec. 162.2)

24. “Rooster” means a male chicken.

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

(Code of Iowa, Sec. 717.B1)

25. “Veterinary hospital” means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseased and injured animals.

26. “Vicious animal” means any animal which inflicts a bite or bites upon and/or attacks a human being or domesticated animal without cause or justification and may or may not be a dangerous animal; or any animal which has a known propensity, tendency, or disposition to attack human beings or domestic animals without provocation, as evidenced by its habitual or repeated chasing, snapping, or barking at human beings or domestic animals so as to potentially cause injury to or to otherwise endanger their safety; or any other animal that manifests a disposition to snap or bite.

27. “Walker” means any person having control over or attempting to have control over a dog when it is off the premises of its owner.

55.02 ANIMAL NEGLECT.

1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal’s welfare:

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

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal’s basic nutrition level to the extent that the animal’s health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

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

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

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

(*Code of Iowa, Sec. 717.2*)

55.04 ABANDONMENT OF CATS AND DOGS. It is unlawful for a person who owns or has custody of a cat or dog to relinquish all rights in and duties to care for the cat or dog. This section does not apply to any of the following:

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or pound that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.
3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

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

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

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

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

55.09 VICIOUS ANIMALS.

1. No person shall own, keep, or harbor a vicious animal within the City.
2. It is the duty of the animal control officer to impound any vicious animal. In the event the animal cannot be caught by the animal control officer without exposing the officer to danger or personal injury, the animal may be destroyed.
3. Seizure, Impoundment, and Disposition of Vicious Animals.
 - A. The animal control officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined in this chapter, may declare such animal a vicious animal by delivering a written notice of declaration to the owner. The notice shall include a description of the animal and the basis for the declaration of viciousness. The notice shall also set forth that the owner shall be required to remove the animal from the City limits as required by this section. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service.
 - B. The order to remove a vicious animal from the City issued by the animal control officer may be appealed to the Council by the person owning, keeping, sheltering, or harboring the animal in question or by his or her designee. In order to appeal such order, written notice of appeal must be filed with the Clerk within three business days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the animal control officer. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within 20 days of the receipt of notice or appeal. The hearing may be continued for good cause. Failure to file a request for hearing shall constitute a waiver of any right to contest the declaration of the animal control officer, and the animal control officer shall be authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the owner has not taken possession of the animal with the intent to remove the animal from the City, the animal control officer shall cause the animal to be destroyed.
 - C. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of the hearing. The notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that, if the determination of the animal control officer is upheld, the owner shall be required to remove the animal from the City limits as required by this section. The notice shall be served in the same manner as the declaration notice.
 - D. After such hearing the Council may affirm, reverse, or modify the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.
 - E. If the Council affirms the action of the animal control officer, the Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such vicious animal shall remove the animal from the City. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice set out in Paragraph A of this subsection. If the original order of the animal control officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the animal control officer is authorized to seize and impound such vicious animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the animal control officer or the Council was issued has not petitioned the County District Court for a review of the order or has not complied with the order, the animal control officer shall cause the animal to be destroyed in a humane manner.

F. Failure to comply with an order of the animal control officer issued pursuant to this section and not appealed or of the Council after appeal is a misdemeanor.

G. Any animal that is alleged to be vicious and that is under impoundment or quarantine at the animal shelter shall not be released to the owner but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs shall be paid by the City, except costs attributable to initial confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are set by resolution.

(Code of Iowa, Sec. 351.37)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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

- A. A prize for participating in a game.
- B. A prize for participating in a fair.
- C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
- D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.

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

- A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
- B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting, or fishing, including but not limited to the Iowa Sportsmen's Federation.

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

(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:

- A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
- B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.

2. This section shall not apply to an act taken by any of the following:

- A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
- B. A peace officer.
- C. A veterinarian.
- D. An animal shelter or pound.

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

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:

- A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
- B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.

2. This section shall not apply to an act taken by any of the following:

- A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
- B. A peace officer.
- C. A veterinarian.
- D. An animal shelter or pound.

55.19 UNHEALTHFUL OR UNSANITARY CONDITIONS.

1. An owner shall keep all structures, pens, coops, or yards wherein animals are confined clean, devoid, of vermin and free of odors arising from feces.
2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.
3. All feces removed, as aforesaid, shall be placed in an airtight container until it is removed pursuant to refuse collection procedures, or otherwise disposed of in a sanitary manner.
4. An owner may, as an alternative to Subsection 3 above, collect the feces and turn it under the surface of the owner's soil in any manner that prevents odor or collection of vermin.

55.20 TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley or private property other than the owners. Said animal shall be considered at large.

55.21 ANIMALS IN PARKS. No animal shall be allowed in any area of a City park unless it is attached to a leash no more than six feet in length and having sufficient strength to restrain the animal when the leash is held by a person capable of restraining and controlling the animal.

55.22 CONFINEMENT OF FEMALE ANIMALS IN HEAT. The owner of any female animal in heat shall confine said animal inside the house or building on the owner's premises during the heat period. The owner may remove a dog in heat from his or her premises for purposes of breeding and/or exercise provided the animal is on a leash, cord, chain, or similar restraint not more than six feet in length and is under the control of the owner.

55.23 DANGEROUS DOMESTIC ANIMALS. Dangerous domestic animals within the City limits shall be muzzled at all times.

55.25 ANIMAL SHELTER AND CITY VETERINARIANS. Any public veterinarian office or pound may be designated by the City to be the animal shelter and any licensed veterinarian may be designated as the City Veterinarian (animal control officer). The City Veterinarian shall have the same powers as a peace officer for the enforcement of provisions of this chapter and any other provisions of law relating to animals.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers
60.08 Parades Regulated

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

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. “MPH” means miles per hour.
3. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
4. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
5. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
6. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
7. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
8. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
9. “Stop” means when required, the complete cessation of movement.
10. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
11. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

2. Parade Not a Street Obstruction. Any parade for which approval has been given 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.

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic, and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 and 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Milling

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

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

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

- 52. Section 321.288 – Control of vehicle; reduced speed.
- 53. Section 321.295 – Limitation on bridge or elevated structures.
- 54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
- 55. Section 321.298 – Meeting and turning to right.
- 56. Section 321.299 – Overtaking a vehicle.
- 57. Section 321.302 – Overtaking and passing.
- 58. Section 321.303 – Limitations on overtaking on the left.
- 59. Section 321.304 – Prohibited passing.
- 60. Section 321.306 – Roadways laned for traffic.
- 61. Section 321.307 – Following too closely.
- 62. Section 321.309 – Towing.
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.

- 86. Section 321.343 – Certain vehicles must stop.
- 87. Section 321.344 – Heavy equipment at crossing.
- 88. Section 321.344B – Immediate safety threat; penalty.
- 89. Section 321.354 – Stopping on traveled way.
- 90. Section 321.359 – Moving other vehicle.
- 91. Section 321.362 – Unattended motor vehicle.
- 92. Section 321.363 – Obstruction to driver's view.
- 93. Section 321.364 – Preventing contamination of food by hazardous material.
- 94. Section 321.365 – Coasting prohibited.
- 95. Section 321.366 – Acts prohibited on fully-controlled access facilities.
- 96. Section 321.367 – Following fire apparatus.
- 97. Section 321.368 – Crossing fire hose.
- 98. Section 321.369 – Putting debris on highway.
- 99. Section 321.370 – Removing injurious material.
- 100. Section 321.371 – Clearing up wrecks.
- 101. Section 321.372 – Discharging pupils, stopping requirements; penalties.
- 102. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 103. Section 321.381A – Operation of low-speed vehicles.
- 104. Section 321.382 – Upgrade pulls; minimum speed.
- 105. Section 321.383 – Exceptions; slow vehicles identified.
- 106. Section 321.384 – When lighted lamps required.
- 107. Section 321.385 – Head lamps on motor vehicles.
- 108. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 109. Section 321.387 – Rear lamps.
- 110. Section 321.388 – Illuminating plates.
- 111. Section 321.389 – Reflector requirement.
- 112. Section 321.390 – Reflector requirements.
- 113. Section 321.392 – Clearance and identification lights.
- 114. Section 321.393 – Color and mounting.
- 115. Section 321.394 – Lamp or flag on projecting load.
- 116. Section 321.395 – Lamps on parked vehicles.
- 117. Section 321.398 – Lamps on other vehicles and equipment.
- 118. Section 321.402 – Spot lamps.
- 119. Section 321.403 – Auxiliary driving lamps.

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

- 154. Section 321.456 – Height of vehicles.
- 155. Section 321.457 – Maximum length.
- 156. Section 321.458 – Loading beyond front.
- 157. Section 321.460 – Spilling loads on highways.
- 158. Section 321.461 – Trailers and towed vehicles.
- 159. Section 321.462 – Drawbars and safety chains.
- 160. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 161. Section 321.465 – Weighing vehicles and removal of excess.
- 162. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

62.03 VEHICLES ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

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

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

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

62.07 MILLING. It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 20 MPH.
2. Residence or School District – 25 MPH.
3. Suburban District – 45 MPH.

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

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

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

(Code of Iowa, Sec. 321.290)

– NONE –

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

(Code of Iowa, Sec. 321.311)

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

The 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 above be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the Business District and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Yield to Pedestrians In Crosswalks

65.01 STOP OR YIELD. Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

65.02 SCHOOL STOPS. At any school crossing zone, every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 10 feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

65.03 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.04 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges
66.05 Truck Routes

66.01 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 and 472)

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

(Code of Iowa, Sec. 321.473 and 321E.2)

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 and 475)

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

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

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

(Code of Iowa, Sec. 321.473)

- A. North Street.
- B. Main Avenue.
- C. Roosevelt Street.

2. Deliveries Off Truck Route. Any motor vehicle weighing five tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for

the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload, and return by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

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

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CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled
69.02 Park Adjacent to Curb
69.03 Parking on One-Way Streets
69.04 Angle Parking
69.05 Manner of Angle Parking
69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited
69.08 Persons with Disabilities Parking
69.09 Truck Parking Limited
69.10 Snow Emergency
69.11 Snow Routes

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

– NONE –

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

(Code of Iowa, Sec. 321.361)

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

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

1. Sale. Displaying such vehicle for sale.

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

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

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

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

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

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*.

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
- B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

69.09 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 pick-up, light delivery, or panel delivery trucks.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any streets within 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 hour.
3. Noise. 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 9:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.
4. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

69.10 SNOW EMERGENCY. All of the streets within the City limits of Alburnett are deemed snow routes. When conditions of snow or ice exist on the street surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic. The Mayor or designee shall be responsible for determining when conditions exist to declare a snow emergency. During a snow emergency no vehicle is allowed to be parked on the street. If a vehicle is parked on the street, the vehicle will be ticketed and towed at the owner's expense. The Mayor or designee is empowered to contact the designated media source to indicate when the snow emergency is in effect. No person shall park, abandon, or leave unattended, any vehicle on a designated snow route during a declared snow emergency until such time as the snow has been removed or plowed from said snow route 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 48-hour period after cessation of the storm except as above provided upon streets which have been fully opened.

69.11 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])

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Vehicle Unattended

70.04 Presumption in Reference to Illegal Parking

70.05 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 and 321.485)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES

75.01 Purpose
75.02 Definitions
75.03 Operation on Roadways
75.04 Unlawful Operation

75.05 Registration Requirements and Other Conditions
75.06 Exempt Vehicles
75.07 Penalties

75.01 PURPOSE. This chapter shall identify regulations regarding the operation of All-Terrain Vehicles and/or Off-Road Utility Vehicles on City roadways designated by the Council.

75.02 DEFINITIONS. The definitions of terms used in this chapter are:

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

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

2. “Designated riding area” means an ATV riding area on any public land or public ice under the jurisdiction of the Department of Natural Resources that has been designated by the Department for ATV use.

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

3. “Designated riding trail” means an ATV riding trail on any public land, private land, or public ice under the jurisdiction of the Department of Natural Resources that has been designated by the Department for ATV use.

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

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

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

5. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

A. “Off-road utility vehicle – Type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – Type 2” includes vehicles, other than Type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

- C. “Off-road utility vehicle – Type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

6. “Public ice” means any frozen, navigable waters within the territorial limits of this State and the frozen marginal river areas adjacent to this state, other than farm ponds, that are under the jurisdiction of the Natural Resource Commission of the DNR.

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

7. “Public land” means land owned by the federal government, the State, or political subdivisions of the State and land acquired or developed for public recreation.

(Code of Iowa, Sec. 321I.1 and 321I.8)

8. “Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

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

75.03 OPERATION ON ROADWAYS.

1. A registered ATV or UTV may be operated on City streets/roadways within the City, pursuant to the restrictions in this ordinance, and those restrictions imposed by the *Code of Iowa*. Operators are required to follow all local regulations and ordinances when operating within incorporated City limits as prescribed in this Code of Ordinances relating to Traffic Code (Chapters 60 – 70).

2. A person shall not operate an ATV or UTV on City streets/roadways unless the operator has a valid driver’s license and is at least 16 years of age. An operator 18 years of age and under shall be required to take and pass an Iowa Department of Natural Resources approved ATV Education Course and must carry a valid safety certificate while operating the vehicle as proof that the Iowa Department of Natural Resources approved ATV Education Course was successfully completed.

3. Operators and passengers under 18 years of age must wear an ATV safety helmet.

4. ATV and UTV operation may begin at sunrise and must cease at sunset.

75.04 UNLAWFUL OPERATION. A person shall not operate an ATV and/or UTV under any of the following conditions:

1. At a rate of speed greater than the residential speed limit of 25 miles per hour, or lower if so posted or designated per City ordinance.

2. In a careless, reckless, or negligent manner, so as to:

A. Endanger any person;

B. Cause injury or damage to person or property; or

C. Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.

3. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

4. Without the following equipment:
 - A. Properly functioning headlight and taillight, operational brakes, functioning brake lights, and speedometer.
 - B. A properly functioning muffling device that complies with the standards and procedures required by Section 321I.12 of the *Code of Iowa*.
 - C. Rearview mirror, if the ATV or UTV is so equipped.
5. Without wearing a properly adjusted and fastened seatbelt if the ATV or UTV is so equipped.
6. Without an ATV safety helmet if the licensed operator or the passenger is under 18 years of age.
7. On any privately owned property, without prior approval of property owner, except upon established drives and roadways therein, public ice, or designated riding trail in violation of official signs prohibiting such operation.
8. In any park, City park, wildlife area, preserve, refuge, or game management area, except on designated riding areas identified by the Department of Natural Resources or designated riding areas identified by any local governing authority.
9. Any portion of a meandered stream or the bed on a non-meandered stream which has been identified as a navigable stream or river by the Iowa Department of Natural Resources and which is covered by water. This provision does not apply to designated riding areas, designated riding trails, construction vehicles engaged in lawful activity, and/or the operation of ATVs on ice.
10. Upon an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at established crossings.
11. With more persons on the vehicle than it was designed to carry. This paragraph does not apply to a person who operates an ATV or UTV as part of a farm operation as defined in Section 352.2 of the *Code of Iowa*.
12. With a firearm in the person's possession while operating or riding on an ATV unless it is unloaded and enclosed in a carrying case, subject to the following exceptions:
 - A. The person is riding on or operating an ATV on land owned or possessed by the person and the person's conduct is otherwise lawful.
 - B. The person is riding on or operating an ATV on land that is not owned or possessed by the person and all of the following apply:
 - (1) The loaded firearm is a pistol or revolver and is secured in a retention holster upon the person,
 - (2) The person possesses and displays to a peace officer, upon demand, a valid permit to carry, which has been issued to the person, and
 - (3) The person's conduct is within the limits of the permit to carry weapons.
 - (4) A non-ambulatory person may carry an uncased and unloaded firearm while operating or riding on an All-Terrain Vehicle.
13. Under the age of 16.
14. Without a valid driver's license.

15. Without a valid safety certificate on board as proof of successful completion of an Iowa Department of Natural Resources approved ATV Education Course if the operator is younger than 18 years of age.

75.05 REGISTRATION REQUIREMENTS AND OTHER CONDITIONS. Individuals who operate ATVs or UTVs on City streets must annually register each said vehicle with the Iowa Department of Natural Resources (IDNR). The following conditions apply:

1. The owner of each ATV or UTV shall be required to provide proof of ownership, including but not limited to bill of sale, Iowa Department of Natural Resources registration, or registration from the appropriate out-of-state authority, and proof of liability insurance as required by Sections 321.20B and 321A.21 of the *Code of Iowa*.
2. ATVs or UTVs registered in Iowa are required to display their current registration decal and carry their certificate on board.
3. ATVs or UTVs registered in another state are required to also display a valid Iowa Department of Natural Resources user permit in addition to displaying a current registration decal and carrying the certificate on board.

75.06 EXEMPT VEHICLES. Registration shall not be required for:

1. ATVs and/or UTVs used exclusively as farm implements.
2. ATVs or UTVs owned by the United States, this State or another state, or by a governmental subdivision thereof, and used for enforcement, search and rescue, or official purposes, but not for recreational or commercial purposes.
3. ATVs used in accordance with Section 321.234A(1)(a) of the *Code of Iowa*.

75.07 PENALTIES. Violation of this chapter shall constitute a simple misdemeanor punishable by local City ordinance, plus the applicable court surcharge and costs and/or up to 30 days in jail as set forth in Section 903.1(1)(a) of the *Code of Iowa*. Any amendments to the simple misdemeanor penalties of Section 903.1(1)(a) of the *Code of Iowa* shall be automatically incorporated into this section without the need of amending this ordinance.

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CHAPTER 76

SNOWMOBILES

76.01 Definitions
76.02 General Regulations
76.03 Places of Operation
76.04 Hours of Operation

76.05 Negligence
76.06 Accident Reports
76.07 Thaw Ban
76.08 Dead Man Throttle

76.01 DEFINITIONS. For use within this chapter the following terms are defined:

1. “Snowmobile” means a motorized vehicle less than 1,000 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])

76.02 GENERAL REGULATIONS. No person shall operate a 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)

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

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by 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. Snowmobiles may be operated on prohibited streets only under the following circumstances:

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

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

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

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

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

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. An 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. Snowmobiles shall not be operated on all-terrain vehicles trails except where so designated.

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

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

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

76.04 HOURS OF OPERATION. Snowmobile operation may begin at sunrise and must cease at sunset except for emergency situations or for loading and unloading from a transport trailer.

76.05 NEGLIGENCE. The owner and operator of a snowmobile is liable for any injury or damage occasioned by the negligent operation of the snowmobile.

(Code of Iowa, Sec. 321G.18)

76.06 ACCIDENT REPORTS. Whenever a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$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 48 hours, in accordance with State law.

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

76.07 THAW BAN. Snowmobiles shall not be operated during a publicized thaw ban in area posted to prohibit such operation.

76.08 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.

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CHAPTER 77

GOLF CARTS

77.01 Purpose
77.02 Operation of Golf Carts Permitted
77.03 Prohibited Streets

77.04 Equipment
77.05 Hours

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

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

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

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

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

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions	80.06 Disposal of Abandoned Vehicles
80.02 Authority to Take Possession of Abandoned Vehicles	80.07 Disposal of Totally Inoperable Vehicles
80.03 Notice by Mail	80.08 Proceeds from Sales
80.04 Reclamation of Abandoned Vehicles	80.09 Duties of Demolisher
80.05 Fees for Impoundment	

80.01 DEFINITIONS. For use in this chapter, the following terms are defined:
(*Code of Iowa, Sec. 321.89[1] and Sec. 321.90*)

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

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall

provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody, no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.

2. Notice shall be deemed given when mailed. The notice shall include all of the following:

A. A description of the year, make, model and vehicle identification number of the vehicle.

B. The location of the facility where the vehicle is being held.

C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.

D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.

E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.

3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.

4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity, or of the assessment of fees and charges provided by this section, may ask for an evidentiary hearing before the police authority to contest those matters.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to

meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles, but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 90

WATER SERVICE SYSTEM

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

90.01 DEFINITIONS. Chapters 90 through 92 of this Code of Ordinance may be known and cited as the Water Service System. The following terms are defined for use in the chapters pertaining to the Water Service System:

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

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

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

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

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 60 days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay \$500.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of \$100.00 paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

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

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

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

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

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.

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

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line

shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

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

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

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

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

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority. The City reserves the right to set or remove a meter whenever it is deemed advisable to do so. Refusal on the part of the owner, consumer, or occupant of any premises served with City water to permit an employee of the City to enter such premises at any reasonable hour for reading the water meter or inspecting water pipes and fixtures shall be sufficient cause to forthwith discontinue the water served at such premises.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

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

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

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems; Exception
91.04 Location of Meters
91.05 Meter Setting

91.06 Meter Costs
91.07 Meter Repairs
91.08 Right of Entry
91.09 Irrigation Meters

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

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

1. Standard Size. The City provides a standard water meter to all properties. The size of said meter is five-eighths inches by three-fourths inches.
2. Non-Standard Size. If a property owner requests anything deviating from this standard meter, they shall pay the difference in cost between the standard meter and the requested meter.

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

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

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

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

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

91.09 IRRIGATION METERS. An irrigation meter supplied by the City may also be installed, for use with single or multiple family residences, to measure water that is not disposed of through the public sanitary sewer system. The water measured by an irrigation meter may include water for swimming pools, watering yards, watering gardens, or other similar uses. The cost of the meter and its installation shall be at the expense of the customer.

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CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Water Registration Fee
92.10 Temporary Vacancy

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

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 1,000 gallons	\$44.00 (minimum bill)
All over 1,000 gallons	\$6.00 per 1,000 gallons

Annual Rate Review. Where, in the judgement of the Council, conditions exist to the extent that the water rates provided in this section are determined to be insufficient to cover budgeted obligations, the Council shall retain the right to review such rates annually and increase by up to but by no more than five percent annually.

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

(Code of Iowa, Sec. 364.4 and 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first business day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 20th day of the same month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$10.00 per month shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk and Mayor shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified.
4. Fees. A fee of \$25.00 shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

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

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

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder and written notice has been provided to the City as described in Subsection 3.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 WATER REGISTRATION FEE. There shall be required from every customer not the owner of the premises served a \$100.00 registration fee.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily disconnected and shut off at the curb stop when the property is expected to be vacant for an extended period of time. When service is temporarily disconnected, as provided herein, there shall be a \$100.00 fee for disconnection and a \$100.00 fee for reconnection, to be collected in full and paid at the time of the request for temporary disconnection. A temporary disconnection of services shall not exceed four months. Upon notification by the property owner that the temporary vacancy has concluded or after a period of four months has expired, whichever comes first, the City shall, at its availability, reconnect the service and resume regular monthly billing. The City is not responsible for draining pipes. The City shall not be held liable for any leaks or damages related to the disconnection and reconnection of services.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose	95.06 Service Outside the City
95.02 Definitions	95.07 Right of Entry
95.03 Superintendent	95.08 Use of Easements
95.04 Prohibited Acts	95.09 Special Penalties
95.05 Sewer Connection Required	95.10 Abandoned Sewer Lines

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(567 IAC 69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

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

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

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

95.10 ABANDONED SEWER LINES. When an existing sanitary sewer service is abandoned or a service is renewed with a new connection in the main, all abandoned connections with the mains shall be capped off and made absolutely watertight.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

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

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The person who makes the application shall pay a fee in the amount of \$500.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth inch per foot.
 - B. Minimum grade of one-eighth inch per foot.
 - C. Minimum velocity of two feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.
11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.
13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements,

the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge, and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer, from the main to the building served, shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the

property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORMWATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of

suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150°F (65°C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:

- A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- 1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
- 2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
- 3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
- 4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required,

shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(567 IAC 69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(567 IAC 69.1[3 and 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(567 IAC 69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Special Rates
99.03 Private Water Systems

99.04 Payment of Bills
99.05 Lien for Nonpayment
99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

(Code of Iowa, Sec. 384.84)

1. First 1,000 gallons or lesser amount per month at \$16.32 per 1,000 gallons.
2. Next 1,000 gallons or lesser amount per month at \$2.81 per 1,000 gallons.

In no case shall the minimum service charge be less than \$16.32 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility. Service fees to industrial customers shall be established by contract prior to connection to the municipal sanitary sewer system, if the City deems such connection to be in its best interests.

99.02 SPECIAL RATES. Where, in the judgment of the Clerk and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Clerk and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.05 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.06 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and

any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

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CHAPTER 100

STORMWATER UTILITY

100.01 Purpose	100.04 Rates
100.02 Definitions	100.05 Payment of Bills
100.03 Stormwater Drainage System District Established	100.06 Lien for Nonpayment

100.01 PURPOSE. The purpose of this chapter is to establish a Stormwater Utility and provide a means of funding the construction, operation, and maintenance of stormwater management facilities including, but not limited to, detention and retention basins, stormwater sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation, and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect drainage system or discharge directly, or indirectly, into the storm and surface water drainage system.

100.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

(567 IAC 69.1[2])

1. "Connection" means the physical act or process of tapping a public stormwater sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance for impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of stormwater runoff, and which drains, directly or indirectly, to the storm and surface water system.
2. "Customer" means, in addition to any person receiving stormwater service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.
3. "Storm and surface water drainage system" means any combination of publicly owned storm and surface after quantity and quality facilities, pumping, or lifting facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyances, treatment, and disposal of the storm and surface after system within the City, to which sanitary sewerage flows are not intentionally admitted.
4. "User" shall mean any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for stormwater management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.03 STORMWATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Section 384.84(5) of the *Code of Iowa*, the entire City is hereby declared a Stormwater Drainage System District for the purpose of establishing, imposing, adjusting, and providing for the collection rates for the operation and maintenance of stormwater management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Stormwater Drainage System District.

(Code of Iowa, Sec. 384.84[5])

100.04 RATES. Each customer shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the stormwater management facilities shall be collected by imposing a monthly rate on each residential, commercial, and industrial customer within the City. The Council may adopt rules, charges, rates, and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension, and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. A fee of \$2.50 per month will be charged and added to every utility customer's account each billing cycle.

100.05 PAYMENT OF BILLS. All Stormwater Drainage System District charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Stormwater service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

100.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for stormwater service charges to the premises. Stormwater service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

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CHAPTER 101

BENEFITED DISTRICTS – CONNECTION CHARGES

101.01 General Provisions
101.02 Definitions

101.03 Connection Charge Required
101.04 Quaas Road Sanitary Sewer and Water District

101.01 GENERAL PROVISIONS. The purpose of this chapter is to establish water utility, storm sewer, and sanitary sewer connection charges for certain properties within the City to recover the costs of designing and constructing said facilities from property owners who connect to such facilities subsequent to their construction. In the event the Council determines the necessity of constructing a water, storm sewer, or sanitary sewer facility and determines that the utilization of a connection charge is the most equitable manner in which to recover the City's costs associated therewith, the Council shall first hold a public hearing on the proposed adoption of an ordinance to establish a benefited district and a connection charge.

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

5. "Benefited district" means that area of the City to which water, storm, or sanitary sewer service can feasibly be provided by a water line, major storm, or sanitary sewer facility of a given design and capacity.
6. "Connection" means the act of connecting a building storm or sanitary sewer to a lateral sewer or manhole constituting a part of a major storm or sanitary sewer facility, or the act of connecting a lateral sewer serving a subdivision to a trunk sewer or manhole constituting a part of a major storm or sanitary sewer facility or connecting to a City water line.
7. "Major storm or sanitary sewer facility or facilities" means and includes storm or sanitary sewer mains, storm or sanitary sewer trunk lines, or storm or sanitary sewer interceptors eight inches in diameter or larger, and storm or sanitary sewer force mains, pumping stations, and detention basins.

101.03 CONNECTION CHARGE REQUIRED. After the effective date of the ordinance establishing a benefited district and a connection charge, no owner of property within the district, whose property is eligible for connection to the storm or sanitary sewer facility, shall make such connection until the required connection charge has been paid. If land use is different than residential and the proposed development uses considerably less sanitary sewer than DNR design criteria the minimum acreage fee may by this chapter is in addition to, and not in lieu of, any other fees required under the plumbing code or other provisions of this Code of Ordinances. When the facility for which a connection charge has been established has been installed and paid for by a private party the fees collected hereunder shall be paid to that party following collection by the City. In the event a property owner makes a connection to the storm or sanitary sewer facility without having paid the required connection charge, the City shall disconnect the building storm or sanitary sewer until the required charge has been paid.

101.04 QUAAS ROAD SANITARY SEWER AND WATER DISTRICT. There is hereby established a sanitary sewer and water district, consisting of one section, to be known as the Quaas Road Sanitary Sewer and Water District. Said district encompasses 65 acres. The schedule of fees for connecting property in said benefited district to the City sewers and water are as follows:

Acreage Method: (Residential R2, 75 Percent Developed)

Capacity Rate Method - Based on DNR density specifications

Acreage Method (Residential, R-2) \$45,000/49 Ac.= \$918.37/ac.

1000 gal per acre per day

Medium Density (Multi-Family) 15 people/acre= \$1,377.55/ac.

1500 gal per acre per day

High Density (Multi-Family) above 30 people/acre= \$2,755.11/ac.

3000 gal per acre per day

Commercial, institutional, or office use = \$4,491.85/ac.

5,000 gal per acre per day

Location of said sanitary sewer hookup fee shall be determined by the stationing established in the Old Quaas Road Sanitary Sewer Project. Fees collected under this section shall be remitted to the owner of the real property located at 2660 Old Quaas Road.

Note: If land use is different than residential and the proposed development uses considerably less sanitary sewer than DNR design criteria, the minimum acreage fee may be revised with the approval of the City Engineer.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Toxic and Hazardous Waste
105.09 Waste Storage Containers

105.10 Prohibited Practices
105.11 Recreational Fires
105.12 Agricultural Burning
105.13 Fire Suppression Training
105.14 Burning Permits
105.15 Liability
105.16 Right of Entry and Inspection
105.17 Enforcement and Penalties

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Bonfire” is the open burning of cut trees, vegetation other than leaves or grass clippings, or lumber, with a total fuel area from three to five feet in diameter and from two to five feet in height.
2. “Collector” means any person authorized to gather solid waste from public and private places.
3. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
4. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
5. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(567 IAC 100.2)
6. “Health hazard” means a condition which is likely to result in death or injury to, or illness of, humans.
7. “Incinerator” means a metal incinerator with a maximum capacity of 30 gallons, constructed of fire-resistive material, including a lid and containing ventilation holes no larger than one and one-half inches in diameter.
8. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(567 IAC 20.2)
9. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to

empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

(Code of Iowa, Sec. 455B.361[2])

10. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

11. “Recreational fire” means the burning of materials other than rubbish, leaves, or grass clippings where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill, or barbecue pit, and which consists of a total fuel area of three feet or less in diameter and two feet or less in height.

12. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.

(567 IAC 100.2)

13. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

14. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

(567 IAC 20.2)

15. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(567 IAC 100.2)

16. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(567 IAC 100.2)

17. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

(Code of Iowa, Sec. 455B.301)

18. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include

vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
- E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.
- F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.
- G. Post-use polymers or recoverable feedstocks that are any of the following:
 - (1) Processed at a pyrolysis or gasification facility.
 - (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

19. “Toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

20. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open

air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(567 IAC 23.2 and 100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(567 IAC 23.2[3] “a”)

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(567 IAC 23.2[3] “b”)

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(567 IAC 23.2[3] “c”)

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste. No person shall kindle or burn leaves or grass clippings or maintain, allow, or authorize the burning of leaves or grass clippings within the City at any time or under any circumstances. Fires for the open burning of plant material, other than leaves or grass clippings, grown on the premises or deposited thereon by the elements shall be permitted only between the hours 12:00 p.m. and sunset. The fires must not be less than 20 feet from any building, and must be contained within a fire pit, incinerator, or other confined area. For the purposes of this section, plant material includes branches from all plants or trees not exceeding one and one-half inches in diameter, but excludes leaves and grass clippings.

(567 IAC 23.2[3] “d”)

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire. **(See Section 105.11)**

(567 IAC 23.2[3] “e”)

6. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(567 IAC 23.2[3] “g”)

7. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium, or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(567 IAC 23.2[3] “h”)

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3] “i”)

9. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled

burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3] “j”)

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(567 IAC 23.2[2])

All burning authorized by this section shall be supervised by an adult at all times, and shall not be left unattended until the fire is completely extinguished.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or at a site designated by the City for composting of yard waste.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.
(Code of Iowa, Sec. 455B.363)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources.

(567 IAC 100.2)

(567 IAC 102.13[2] and 400 IAC 27.14[2])

105.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such

purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 RECREATIONAL FIRES.

1. Any violation of this article is a municipal infraction punishable as provided in Chapter 3 of this Code of Ordinances.

2. Authority to Prohibit Fires. Any law enforcement official, Fire Chief, or City official may prohibit any and all bonfires, recreational fires, and fires of any other type upon complaint, or when conditions within the City create a fire hazard or a health hazard.

3. Burning Prohibited; Exception.
 - A. No person shall kindle, burn, or maintain a bonfire within City limits except as follows:
 - (1) In an approved incinerator.
 - (2) When an incinerator is used for burning as authorized by this section, the incinerator must be covered at all times by a lid and is to be placed when so used not less than 20 feet from any building.
 - (3) Permitted burning as authorized herein shall be permitted only between the hours of 12:00 p.m. and sunset, unless a special permit is first obtained from the Council.
4. Other Permitted Fires. The following types of fires are permitted within the City limits, as long as such fires do not involve the burning of leaves or grass clippings, and to the extent such types of fires are not inconsistent with the provisions of this chapter:
 - A. Recreational fires subject to the following requirements:
 - (1) Recreational fires shall not be conducted within 20 feet of a structure or combustible material unless contained in a barbecue pit. Conditions which could cause a fire to spread to within 20 feet of a structure shall be eliminated prior to ignition;
 - (2) Buckets, shovels, garden hoses, or a fire extinguisher with a minimum 4-A rating shall be readily available for use;
 - (3) The fire shall be constantly attended by an adult knowledgeable in the use of fire extinguisher equipment required by Subparagraph 2 of this paragraph until such fire has been extinguished; and
 - (4) Any law enforcement official, Fire Chief, or City official is authorized to require that recreational fires be immediately discontinued if such fires are determined by the Fire Chief to constitute a hazardous condition.
 - B. Fires set for the purpose of bona fide instruction or training in the method of firefighting.
 - C. Bonfires, subject to the following requirements:
 - (1) Bonfires shall not be conducted within 50 feet of a structure or combustible material. Conditions which could cause a bonfire to spread to within 50 feet of a structure shall be eliminated prior to ignition;
 - (2) Buckets, shovels, garden hoses, or a fire extinguisher with a minimum 4-A rating shall be readily available for use;
 - (3) The fire shall be constantly attended by an adult knowledgeable in the use of fire extinguisher equipment required by Subparagraph 2 of this paragraph until such fire has been extinguished; and
 - (4) Any law enforcement official, Fire Chief, or City official is authorized to require that bonfires be immediately discontinued if such fires are determined by the Fire Chief to constitute a hazardous condition.
5. Burning of Garbage or Rubbish. No person shall kindle or burn any garbage or rubbish within the City limits.

105.12 AGRICULTURAL BURNING. Open burning of weeds, brush, and crop stubble on agricultural lands is allowed if conducted in accordance with other applicable provisions of this chapter including but not limited to obtaining a permit issued in accordance with Section 105.14.

105.13 FIRE SUPPRESSION TRAINING. Structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

1. The burn must be exclusively for fire prevention training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.
2. Any standing structure that will be used in a fire suppression training requires the proper permits to be obtained through the State and County.
3. All asbestos must be removed prior to conducting the fire suppression training if the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.
4. At least seven days before a planned practice burn, residents within 2,000 feet of the site of the proposed burn shall be notified.
5. All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

105.14 BURNING PERMITS.

1. No person shall start or maintain any outdoor burning or open burning covered under this section without a burning permit issued by the County, and the Iowa Department of Public Health.
2. Any violation of the conditions of the burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

105.15 LIABILITY. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

105.16 RIGHT OF ENTRY AND INSPECTION. The Fire Chief, County Sheriff's Department, or any authorized officer, agent, employee, or representative of the City who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.

105.17 ENFORCEMENT AND PENALTIES.

1. The Fire Chief, County Sheriff's Department or any officer, agent, employee, or representative of the City who presents credentials are authorized to enforce the provisions of this chapter.
2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this chapter or fails to comply with a duly authorized order issued pursuant to this chapter shall be deemed to be responsible for a municipal civil infraction as defined by Iowa Statute which shall be punishable by civil fine as defined in Chapter 3 of this Code of Ordinances.
3. The violator shall pay costs which may include all expenses, direct and indirect, which the City has incurred in connection with the municipal infraction. In addition, the City shall

have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this chapter. Each day that a violation of this chapter exists shall constitute a separate violation of this chapter.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading

106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be by private contract with collectors.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(567 IAC 104.9)

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Grant of Franchise	110.11 Indemnification
110.02 Mains and Pipes	110.12 Remittance of Franchise Fee
110.03 Excavations	110.13 Adjusting Franchise Fee
110.04 Relocation	110.14 City Responsible for Use of Franchise Fee
110.05 Quality of Service	110.15 Franchise Fee Nonrefundable
110.06 Franchise Fee	110.16 Cessation of Franchise Fee Collection
110.07 Application of Franchise Fee	110.17 Franchise Fee Replaces Other Fees
110.08 Commencement of Franchise Fee Collection	110.18 Company Exempt from Other Fees
110.09 Reimbursement of Administrative Costs	110.19 Franchise Nonexclusive
110.10 Annexation	110.20 Term

110.01 GRANT OF FRANCHISE. There is hereby granted to Interstate Power And Light Company, hereinafter referred to as the “Company,” its successors, and assigns, the right, franchise, and privilege for the term of 25 years from and after the passage, adoption, approval, and acceptance of this Ordinance^{4†}, to lay down, maintain, and operate the necessary pipes, mains, and other conductors and appliances in, along, and under the streets, avenues, alleys, and public places in the City as now or hereafter constituted, for the purpose of distributing, supplying, and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas” as used in this franchise shall be construed to mean natural gas only.

110.02 MAINS AND PIPES. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers, and fire plugs which have been or may hereafter be placed in any street, alley, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City, and the Company, its successors, and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation, and maintenance of said natural gas distribution system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

110.04 RELOCATION. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

^{4†} **EDITOR’S NOTE:** Ordinance No. 05-2012-1, adopting a natural gas franchise for the City, was passed and adopted on June 14, 2012. Ordinance No. 2019-1, amending said franchise, was passed and adopted on August 8, 2019.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

110.05 QUALITY OF SERVICE. Said Company, its successors, and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God, or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06 FRANCHISE FEE. In its monthly billing the Company shall include a franchise fee of one percent on the gross receipts from the sale of natural gas to the Company's natural gas customers located within the corporate limits of the City.

110.07 APPLICATION OF FRANCHISE FEE. The franchise fee shall be applied to all customers' bills in accordance with Chapters 364.2 and 423B.5 of the *Code of Iowa*. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

110.08 COMMENCEMENT OF FRANCHISE FEE COLLECTION. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of its amended tax rider tariff from the Iowa Utilities Board.

110.09 REIMBURSEMENT OF ADMINISTRATIVE COSTS. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

110.10 ANNEXATION. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date

which is not less than 90 days from receipt of the information required of the City to implement the franchise fee.

The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

110.11 INDEMNIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

110.12 REMITTANCE OF FRANCHISE FEE. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

110.13 ADJUSTING FRANCHISE FEE. The City shall give the Company a minimum six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Section 110.06 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than 90 days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

110.14 CITY RESPONSIBLE FOR USE OF FRANCHISE FEE. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

110.15 FRANCHISE FEE NONREFUNDABLE. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.16 CESSATION OF FRANCHISE FEE COLLECTION. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term.

1. The obligation to collect and remit the fee imposed by this Ordinance is modified if:

A. Any other person is authorized to sell natural gas to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this Ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

B. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

C. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this Ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee Ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

2. The obligation to collect and remit the fee imposed by this Ordinance is repealed, effective as of the date specified below with no liability therefor, if:

A. The imposition, collection, or remittance of a franchise fee is judicially determined to be unlawful by a court of competent jurisdiction within the State of Iowa. Such determination shall be effective only after all available appeals have either been exhausted or have expired; or

B. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

C. The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect, or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

110.17 FRANCHISE FEE REPLACES OTHER FEES. That said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys, and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along, and under the streets, avenues, alleys, and public places in the said City for the purpose of distributing, supplying, and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license, or rental charge during the entire term of this ordinance.

110.18 COMPANY EXEMPT FROM OTHER FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

110.19 FRANCHISE NONEXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

110.20 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of 25 years from and after its acceptance by the said Company, as herein provided.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Grant of Franchise	111.12 Reimbursement of Administrative Costs
111.02 Poles and Wires	111.13 Annexation
111.03 Excavations	111.14 Indemnification
111.04 Relocation	111.15 Remittance of Franchise Fees
111.05 Meters	111.16 Adjustment of Franchise Fee
111.06 Quality of Service	111.17 City Responsible for Use of Franchise Fee
111.07 Franchise Nonexclusive	111.18 Franchise Fee Nonrefundable
111.08 Uninterrupted Service	111.19 Cessation of Franchise Fee Collection
111.09 Franchise Fee	111.20 Franchise Fee Replaces Other Fees
111.10 Application of Franchise Fee	111.21 Company Exempt from Other Fees
111.11 Commencement of Franchise Fee Collection	111.22 Term

111.01 GRANT OF FRANCHISE. There is hereby granted to Interstate Power And Light Company, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of 25 years^{5†}; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

111.02 POLES AND WIRES. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City, and the said Company, its successors, and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, Company, its successors, and assigns, shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

111.04 RELOCATION. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

^{5†} **EDITOR'S NOTE:** Ordinance No. 05-2012-2, adopting an electric franchise for the City, was passed and adopted on June 14, 2012. Voters approved the franchise at an election held on June 26, 2012. Ordinance 2019-2, amending said franchise, was passed and adopted August 8, 2019.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

111.05 METERS. The Company, its successors, and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 QUALITY OF SERVICE. The system authorized by this Ordinance shall be modern and up to date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up to date condition.

111.07 FRANCHISE NONEXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

111.08 UNINTERRUPTED SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 FRANCHISE FEE. In its monthly billing the Company shall include a franchise fee of one percent on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City.

111.10 APPLICATION OF FRANCHISE FEE. The franchise fee shall be applied to all customers' bills in accordance with Chapter 364.2 and 423B.5 of the *Code of Iowa*. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

111.11 COMMENCEMENT OF FRANCHISE FEE COLLECTION. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of the amended tax rider tariff from the Iowa Utilities Board.

111.12 REIMBURSEMENT OF ADMINISTRATIVE COSTS. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall

reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

111.13 ANNEXATION. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than 90 days from receipt of the information required of the City to implement the franchise fee.

The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

111.14 INDEMNIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

111.15 REMITTANCE OF FRANCHISE FEES. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

111.16 ADJUSTMENT OF FRANCHISE FEE. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Section 111.09 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than 90 days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

111.17 CITY RESPONSIBLE FOR USE OF FRANCHISE FEE. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

111.18 FRANCHISE FEE NONREFUNDABLE. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of

customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

111.19 CESSATION OF FRANCHISE FEE COLLECTION. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term.

1. The obligation to collect and remit the fee imposed by this chapter is modified if:
 - A. Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or
 - B. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or
 - C. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.
2. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified below with no liability therefor, if:
 - A. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that court; or
 - B. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or
 - C. The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

111.20 FRANCHISE FEE REPLACES OTHER FEES. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys, and public places in said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits, and other appliances for the distribution of electric current along, under and upon the streets, alleys, and public places in the City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat, and power shall be exempt from any special tax, assessment, license, or rental charge during the entire term of this chapter.

111.21 COMPANY EXEMPT FROM OTHER FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

111.22 TERM. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its acceptance by the said Company, as herein provided.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Grant of Franchise
113.02 Renewal

113.03 Rights

113.01 GRANT OF FRANCHISE. By Ordinance No. 26 and 27, Section 31 adopted June 10, 1985, the City granted to Farmers Mutual Telephone Company, a corporation, its successors and assigns, the right to use and occupy the streets, alleys, and other public places of the City, for the purpose of constructing, maintaining and operating a cable TV system within the City, for a term of 15 years from the effective date of said ordinance.^{6†}

113.02 RENEWAL. Shellsburg Cablevision, Inc., the successor to Farmers Mutual Telephone Company, has submitted to the City a request for renewal of said rights and the City, after having assessed the cable television needs of the City and providing the public an opportunity to comment, has determined that Ordinance No. 26 and 27, Section 31 adopted June 10, 1985 for an additional 15 years from the effective date hereof.

113.03 RIGHTS. The rights herein granted are subject to the provisions of the cable television regulatory ordinance passed by the City on the 10th day of June 1985, as the same may have been amended or supplemented, and Shellsburg Cablevision, Inc. agrees to such regulation.

^{6†} **EDITOR'S NOTE:** Ordinance No. 26, and 27, Section 31 adopted June 10, 1985 establishing a franchise agreement. Ordinance No. 98-1, renewing franchise agreement on October 12, 1998.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee, and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a Class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the

hours of 6:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b] and 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

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

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code*

of Iowa. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge

or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

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

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable

122.10 Time Restriction
122.11 Revocation of License
122.12 Hearing
122.13 Record and Determination
122.14 Appeal
122.15 Effect of Revocation
122.16 Rebates
122.17 License Exemptions
122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. No application fee shall be required for such license.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. For each person actually soliciting (principal or agent), a fee for the principal of \$10.00 per year.

2.	Peddlers or Transient Merchants.		
A.	For one day	\$	5.00
B.	For one week	\$	10.00
C.	For up to six months	\$	20.00
D.	For one year or major part thereof	\$	25.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 8:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

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

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

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

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

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

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Alburnett Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit to the Clerk in writing the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the

applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

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

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved. Buildings of less than 100 square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk on a form provided by the City.. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

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

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

123.06 PERMIT FEE. A permit fee of \$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.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124

SPECIAL EVENTS

124.01 Permit Required

124.02 Application

124.03 Other Permits and Licenses Required

124.04 Authority of Council

124.05 Penalty

124.01 PERMIT REQUIRED. A special event permit 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.

1. Partial or full closure of a public street.
2. Blocking or restricting access to private property of others or blocking or restricting access to a public street.
3. Use of pyrotechnics or special effects.
4. Use of open flame or other potentially dangerous displays.
5. Sale or distribution of merchandise, food, or beverages including alcoholic beverages.
6. Erection of a tent over 400 sq. ft. or canopy over 700 sq. ft.
7. Installation of a stage, band shell, truck, trailer, van, portable building, booth, grandstand, or bleachers.
8. Placement of portable toilets.
9. Placement of temporary signs or banners
10. Amplified sound.

124.02 APPLICATION. A completed application on forms furnished by the City shall be filed with the City Clerk at least 30 days prior to the event requiring the Special Event Permit.

124.03 OTHER PERMITS AND LICENSES REQUIRED. All sponsors, 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.

124.04 AUTHORITY OF COUNCIL. The 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.

124.06 PENALTY. A violation of this chapter is a municipal infraction subject to the provisions of Chapter 3 of this Code of Ordinances.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling On Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Property Owner's Responsibility for Maintenance

135.11 Failure to Maintain

135.12 Dumping of Snow

135.13 Driveway Culverts

135.14 Encroachments

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, peace officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:

A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

B. A statement of the purpose, for whom and by whom the excavation is to be made;

C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 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 administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.

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:

A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.

B. Property Damage - \$50,000.00 per accident.

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

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

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

10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.^{7†}

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the Business District it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost

^{7†} **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 ENCROACHMENTS. No person shall create, construct, use, or maintain upon, over, or under the surface of any publicly owned real property, right-of-way, or easement within the City any structure or inanimate thing or other encroachment of a private character, unless and until City permission is granted and a written permit has been issued according to the following procedure.

1. Application. An application for an encroachment permit shall be made in writing to the Council and accompanied by a complete plan in detail of the proposed encroachment.

2. Approval. The Council may, after investigation, approve, modify, or reject an application for an encroachment permit. It may require as a condition prior to the issuance of a permit that the property owner enter into a contract with the City and furnish a corporate surety bond in an amount fixed by the Council conditioned to hold the City harmless from any damages or expense of any nature sustained by the City or any person or persons by reason of the encroachment for which the permit is issued.

3. Revocation. All encroachment permits shall expire one year from the date of issuance but shall automatically renew each year for an additional one year, unless the City provides a written notice to the permit holder, by ordinary mail, that the permit will not be automatically renewed. All permits are subject to revocation prior to expiration provided that the City provides at least 20 days' notice of its intent to revoke the permit and provides the opportunity for a hearing. The Council shall revoke a permit previously issued hereunder whenever it finds that the permit conflicts or interferes with the City's current need to use its street or property.

4. Issuance of Permit. Upon approval of an application for an encroachment permit by the Council, the Clerk shall, upon filing of a bond, if required, issue the permit and retain a record thereof.

5. Exceptions. This section does not apply to encroachments carried out under the provisions of 135.09 nor to utility companies performing work in the right-of-way under an existing franchise agreement. Standard mailboxes may be installed in accordance with Chapter 148 without an encroachment permit.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City Ordered Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal of a public sidewalk and/or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow and ice from sidewalks within a reasonable time, but in no case later than 24 hours, after snow has fallen or ice has formed.

1. The abutting property owner shall remove the snow from the entire width of the sidewalk.
2. The failure of the abutting property owner to remove snow or ice from sidewalks shall not make the City liable to any person for damages arising out of or caused by the failure of the abutting property owner to remove said snow or ice.

3. If the abutting property owner fails to comply with this section, the City may at once proceed with whatever actions are required to remove or mitigate snow or ice from the sidewalk. The City may then charge the cost and expense thereof against the abutting property owner.

4. All fees for the removal of snow and ice from public sidewalks performed by the City shall be established by resolution of the Council. All such fees shall be paid in accordance with the terms of such resolution, or as the same be amended from time to time by the Council.

5. Annual publication of this chapter will serve as notice to property owners. Any billings for snow or ice removal done by the City or its agents are to be sent by regular mail and are payable within 30 days of the billing date.

6. If a property is found to be in violation of this section, the owner may be subject to a civil citation and fine each day the property is not in compliance per Chapter 3 of this code. Pursuing a civil fine via citation does not prohibit the City from also abating a violation and assessing the related fees as outlined above in this section. Each day that a violation occurs or is permitted to exist by the owner constitutes a separate offense.

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY ORDERED REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width, and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
 - C. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.
(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] and 364.7[3])

[illegible]

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CHAPTER 138

STREET GRADES

138.01 Purpose and Definition
138.02 Established Grades

138.03 Record Maintained

138.01 PURPOSE AND DEFINITION. This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, “grade” means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 ESTABLISHED GRADES. The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.03 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR’S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Alburnett, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Code Enforcement Official is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such

reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.^{8†}

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ALBURNETT, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the

^{8†} **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

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CHAPTER 147

WELL PROTECTION

147.01 Distances

147.02 Application

147.01 DISTANCES. No structure or facility of the enumerated types set out in the following Table A shall be located within the distances set forth in said Table from public wells within the City.

147.02 APPLICATION. Proscriptions set forth in Table A shall apply to all public wells existing within the City, except public water wells formerly abandoned for use by resolution of the Council.

TABLE A: SEPARATION DISTANCES

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well ¹	Shallow Well ¹
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers and Drains²		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well ¹	Shallow Well ¹
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes ³	200	400
Other		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites ⁴	1,000	1,000

¹ Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

² The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

³ Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

⁴ Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

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CHAPTER 148

MAILBOXES

148.01 Type of Mailboxes
148.02 Location of Mailboxes

148.03 Maintenance of Approaches
148.04 Nonconforming Existing Mailboxes

148.01 TYPE OF MAILBOXES. All mailboxes placed upon the City streets and right-of-ways shall be approved by the U.S. Department of Postal Service regulations.

148.02 LOCATION OF MAILBOXES. Boxes shall not be set closer than 25 feet to an intersection; said intersection shall be determined by measuring 25 feet from the middle of the intersecting street down the street the mailboxes are to be placed upon. Mailboxes shall not be placed closer than 10 feet from any alley. Mailboxes meeting the above specifications may be placed in the street right-of-way provided that the support thereof shall be at least two feet behind the curb or edge of the traveled way and no portion of the box or support shall extend beyond the inner edge of the curb. Said boxes shall not obstruct a paved sidewalk for pedestrians and where the roadway has a shoulder to be maintained, said boxes and support shall be placed so as not to interfere with the road maintenance or snow removal.

148.03 MAINTENANCE OF APPROACHES. All approaches to the mailboxes shall be maintained by the individual owners of the boxes at said approach and the City shall not responsible for surfacing, grading, or maintaining said approaches.

148.04 NONCONFORMING EXISTING MAILBOXES. All existing mailboxes in the City at the time of the effective date of the ordinance codified will be allowed a period of six months to meet requirements. A mailbox installed after said effective date must meet the requirements and specifications of this chapter.

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CHAPTER 149

COMMUNICATION TOWERS AND ANTENNAS

149.01 Purpose and Policy
149.02 Definitions
149.03 Local Regulations
149.04 Lease Required
149.05 Fee Required
149.06 Limit on Term
149.07 Placement Requirement
149.08 Placement Requirements

149.09 Application Process
149.10 Conditions for Approval
149.11 Noise and Emission Standards
149.12 Placement of Facilities and Related Lease Fees
149.13 Abandonment
149.14 Termination
149.15 New Technologies
149.16 Home Rule

149.01 PURPOSE AND POLICY. The City Council 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 chapter is to be interpreted in light of these findings for the benefit for the citizens of the City.

149.02 DEFINITIONS. As used in this chapter:

1. “Antenna” means a device, dish, or array used to transmit or receive telecommunications signals.
2. “Communications tower” means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed, or on a building.
3. “Height” of a communications tower is the distance from the base of the tower to the top of the structure.
4. “Telecommunications” means 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.

149.03 LOCAL REGULATIONS. 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 chapter.

149.04 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

149.05 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.

149.06 LIMIT ON TERM. No lease for the use of public property under this chapter shall be granted for a term of more than 25 years.

149.07 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.
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.

149.08 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 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 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.

149.09 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 Council resolution and the following documents, if applicable:

1. One 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 file 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.
1. A report from a registered professional engineer practicing in structural engineering 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.
2. Identification of the owners of all antennas and equipment to be located on the site.
3. Written authorization from the site owner for the application.
4. Evidence that a valid FCC license for the proposed activity has been issued, and valid FCC licensed equipment shall be used for the tower structure.
5. A line of site analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
6. A written agreement to remove the tower, antenna, and/or facilities within 180 days after cessation of use.
7. Additional information, as reasonably required by the City, to determine that all applicable regulations and ordinances are met.
8. Any communications facilities located on the roof of an antenna support structure must be setback at least one 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 24 inches from the side of such an antenna support structure.

149.10 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 is unsuitable for operation of the facility under applicable communications regulations and the applicants technical design requirements.
5. 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 \$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. A free-standing tower with height not exceeding 100 feet is a permitted conditional use. Height exceeding 100 feet requires a special exception.
 - B. Commercial Districts. A free-standing or guyed tower with a height not exceeding 180 feet is a permitted conditional use. Height exceeding 180 feet requires a special exception.
 - C. Industrial Districts. A free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use. Height exceeding 360 feet requires a special exception.
10. A tower must be a minimum distance equal to one and one half 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 25 percent of the tower height, whichever is greater.

149.11 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.

149.12 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 approval of the 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 Council resolution.

149.13 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of 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. 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 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 90 days or to dismantle and remove the tower.

149.14 TERMINATION. The Council may terminate any lease if it is determined that any one 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; or
3. A user violates any of the standards in this chapter or the conditions or terms of the City's Lease Agreement.

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 Council regarding the proposed action. This procedure need not be followed in emergency situations.

149.15 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 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.

149.16 HOME RULE. This chapter 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.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty To Trim Trees

151.04 Trimming Trees To Be Supervised
151.05 Disease Control
151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax in accordance with nuisance abatement procedures outlined in Chapter 50.

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

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

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

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

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

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

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CHAPTER 155

BUILDING CODE

155.01 Codes Adopted
155.02 Board of Appeals

155.03 28E Agreement

155.01 CODES ADOPTED. Except as hereinafter added to, deleted, modified, or amended, there are hereby adopted as the Construction Codes of the City those certain Codes and Regulations as codified in the Linn County Iowa Code of Ordinances, Chapter 105 – Buildings and Building Regulations, Articles I – V, and Chapter 12 – Fire Prevention and Protection, including all future amendments and modifications thereto. The provisions of said Construction Codes shall be controlling in the construction of buildings and other structures and in all matters covered by said codes within the jurisdictional limits of the City and shall be known as the “City Building Regulations.”

155.02 BOARD OF APPEALS. 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 City Building Regulations, there shall be and is hereby created a Board of Appeals, as appointed by the City Council. In the alternative, the Council may designate itself as the Board of Appeals. The Building Official or designated representative shall be an ex-officio member without a vote.

The Board of Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend such new legislation as is consistent therewith. The Board shall hold regular meetings as determined by the Board, unless there are no appeals or business on file for a hearing.

A nominal appeal fee to the Board of Appeals shall be paid as adopted by resolution of the City Council. If granted, the appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

The Board shall have no authority of interpretation of the administration of these regulations nor shall such Board be empowered to waive requirements of these regulations.

155.03 28E AGREEMENT. Pursuant to Chapter 28E of the *Code of Iowa*, the Agreement by and between Linn County, Iowa and the City shall be known as the “Linn County and City of Alburnett agreement for Construction Code Administration.”

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CHAPTER 156

HOUSING CODE

156.01 Codes Adopted
156.02 Board of Appeals

156.03 28E Agreement

156.01 CODES ADOPTED. Except as hereinafter added to, deleted, modified or amended, there are hereby adopted as the Housing Code of the City of Alburnett, those certain Codes and Regulations as codified in the Linn County Iowa Code of Ordinances, Chapter 105 - Buildings and Building Regulations, Articles VII, including all future amendments and modifications thereto. The provisions of said housing code shall be controlling in regulating the conditions and maintenance of all non-owner occupied residential structures and premises, and in ensuring that structures are safe, sanitary, and fit for occupation and use within the jurisdictional limits of the city and shall be known as the "City Housing Regulations."

156.02 BOARD OF APPEALS.

1. In order to hear and decide appeals of orders, decisions or determinations made by the Code Official relative to the application and interpretation of the City Housing Regulations, there shall be and is hereby created a Board of Appeals, as appointed by the Council. In the alternative, the Council may designate itself as the Board of Appeals. The Code Official or designated representative shall be an ex-officio member without a vote.
2. The Board of Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Code Official with a duplicate copy to the appellant, and may recommend such new legislation as is consistent therewith. The Board shall hold regular meetings as determined by the Board, unless there are no appeals or business on file for a hearing.
3. A nominal appeal fee to the Board of Appeals shall be paid as adopted by resolution of the Council. If granted, the appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.
4. The Board shall have no authority of interpretation of the administration of these regulations nor shall such board be empowered to waive requirements of these regulations.

156.03 28E AGREEMENT. Pursuant to Chapter 28E of the *Code of Iowa*, the Agreement by and between Linn County, Iowa and the City shall be known as the "Linn County and City of Alburnett agreement for Housing Code Administration."

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CHAPTER 157

PROPERTY MAINTENANCE CODE

156.01 Codes Adopted
156.02 Board of Appeals

157.03 28E Agreement

157.01 CODES ADOPTED. Except as hereinafter added to, deleted, modified or amended, there are hereby adopted as the Property Maintenance Code of the City of Alburnett, those certain codes and regulations as codified in the Linn County, Iowa, Code of Ordinances, Chapter 105 - Buildings and Building Regulations, Articles VI, including all future amendments and modifications thereto. The provisions of said property maintenance code shall be controlling in regulating the conditions and maintenance of all structures and premises, and in ensuring that structures are safe, sanitary, and fit for occupation and use. The provisions of said property maintenance code within the jurisdictional limits of the City and shall be known as the "City Property Maintenance Regulations."

157.02 BOARD OF APPEALS.

1. In order to hear and decide appeals of orders, decisions or determinations made by the Code Official relative to the application and interpretation of the City Property Maintenance Regulations, there shall be and is hereby created a Board of Appeals, as appointed by the Council. In the alternative, the Council may designate itself as the Board of Appeals. The Code Official or designated representative shall be an ex-officio member without a vote.

2. The Board of Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Code Official with a duplicate copy to the appellant, and may recommend such new legislation as is consistent therewith. The Board shall hold regular meetings as determined by the Board, unless there are no appeals or business on file for a hearing.

3. A nominal appeal fee to the Board of Appeals shall be paid as adopted by resolution of the City Council. If granted, the appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

4. The Board shall have no authority of interpretation of the administration of these regulations, nor shall such board be empowered to waive requirements of these regulations.

157.03 28E AGREEMENT. Pursuant to Chapter 28E of the *Code of Iowa*, the Agreement by and between Linn County, Iowa and the City shall be known as the "Linn County and City of Alburnett agreement for Property Maintenance Code Administration."

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CHAPTER 160

FLOODPLAIN REGULATIONS

160.01 Definitions	160.07 Floodway Fringe (Overlay) District
160.02 Statutory Authority, Findings of Fact, and Purpose	160.08 General Floodplain (Overlay) District (GF)
160.03 General Provisions	160.09 Appointment and Duties of Board of Adjustment
160.04 Administration	160.10 Nonconforming Uses
160.05 Establishment of Zoning (Overlay) Districts	160.11 Penalties for Violation
160.06 Floodway (Overlay) District (FW)	160.12 Amendments

160.01 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 160.07(2)(D)(1) of this chapter; and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and
 - D. The enclosed area is not a "basement" as defined in this section.
7. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community.
8. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-

built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

9. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

10. "Factory-built home" means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

11. "Factory-built home park or subdivision" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

12. "500 year flood" means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.

13. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

14. "Flood Insurance Rate Map" (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

15. "Flood Insurance Study" (FIS) means a report published by FEMA for a community issued along with the community's Flood Insurance Rate Maps. The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

16. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

17. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

18. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

19. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

20. "Floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.

21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.
24. "Maximum damage potential development" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than \$500.00.
26. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
- A. Built on a single chassis;
 - B. 400 square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided

they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.

30. "Special Flood Hazard Area" (SFHA) means the land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.

33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.
- B. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."

C. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

36. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT, AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414 of the *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding, and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City of Alburnett and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.02(2)(A) of this Ordinance with provisions designed to:

A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

1. Lands to Which Chapter Apply. The provisions of this chapter shall apply to all lands within the jurisdiction of the City which are located within the boundaries of the Floodway, Floodway Fringe and General Floodplain (Overlay) Districts as established in Section 160.05.

2. Establishment of Official Floodplain Zoning Map. The Flood Insurance Rate Map (FIRM) for Linn County and Incorporated Areas, City of Alburnett, Panels 19113C00169E, 0170E, 0188E, 0190E, dated July 20, 2021, which were prepared as part of the Flood Insurance Study for Linn County, are hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Linn County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.
3. Rules for Interpretation of Floodplain (Overlay) District. The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.
4. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
5. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
6. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
7. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.
8. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 ADMINISTRATION.

1. Appointment, Duties, and Responsibilities of Local Official.
 - A. The Zoning Administrator is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
 - B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - (1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.
 - (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

a. Development placed within the floodway results in any of the following:

(i) An increase in the Base Flood Elevations, or

(ii) Alteration to the floodway boundary

b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

(11) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading,

paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

1. Floodway (Overlay) District (FW) – those areas identified as Floodway on the Official Floodplain Zoning Map;
2. Floodway Fringe (Overlay) District (FF) – those areas identified as Zone AE on the Official Floodplain Zoning Map but excluding those areas identified as Floodway;
3. General Floodplain (Overlay) District – those areas identified as Zone A on the Official Flood Plain Zoning Map

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

160.06 FLOODWAY (OVERLAY) DISTRICT (FW).

1. All development within the Floodway District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards or the Floodway District.

2. Performance Standards. All Floodway District uses allowed as a Permitted Use shall meet the following standards.

A. No development shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

B. All development within the Floodway District shall:

- (1) Be consistent with the need to minimize flood damage.
- (2) Use construction methods and practices that will minimize flood damage.
- (3) Use construction materials and utility equipment that are resistant to flood damage.

C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.

G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.07 FLOODWAY FRINGE (OVERLAY) DISTRICT.

1. Permitted Uses. All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Floodplain District.

2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one foot. Where base flood elevations and floodway data have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All development shall:

- (1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.
- (2) Use construction methods and practices that will minimize flood damage.
- (3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Non-residential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

- (1) Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electrical meter, electrical service panel box, water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one foot above the base flood elevation.

(4) New and substantially improved structures must be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one foot above the base flood elevation or designated to be watertight and withstand inundation to such a level.

E. Factory-built Homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems:

(1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater

treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of materials and equipment that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than one foot above the base flood elevation must be constructed of flood-resistant materials.

b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of Section 160.07(2)(D)(1) of this chapter.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of Section 160.07(2)(E) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.07(2)(E) of this chapter regarding anchoring and elevation of factory-built homes.

M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the two-tenths percent annual chance flood; and that the structure, below the two-tenths percent annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where two-tenths percent chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.08 GENERAL FLOODPLAIN (OVERLAY) DISTRICT (GF).

1. Permitted Uses

A. All development within the General Floodplain District shall be permitted to the extent that they are not prohibited by another ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the General Floodplain District.

B. Any development which involves placement of structures, factory-built homes, fill, or other obstructions, storage of materials or equipment, excavation, or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

(1) The bridge or culvert is located on a stream that drains less than two square miles, and

(2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

2. Performance Standards

A. All development, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (**See Section 160.06**).

B. All development, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District (**See Section 160.07**).

160.09 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.

1. Appointment and Duties of Board of Adjustment. A Board of Adjustment is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this chapter, and shall take any other action which is required of the Board.

2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variance. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local codes or ordinances.

B. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (ii) such construction increases risks to life and property.

D. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an Appeal or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an Appeal or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 160.09(4)(B)(2).

(1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other land or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the City.
- f. The requirements of the facility for a floodplain location.
- g. The availability of alternative locations not subject to flooding for the proposed use.

- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.
- l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
- m. Such other factors which are relevant to the purpose of this chapter.

(2) Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

- a. Modification of waste disposal and water supply facilities.
- b. Limitation of periods of use and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
- e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

160.10 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 160.10(1)(B), any use which has been permitted as a Variance shall be considered a conforming use.

160.11 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

160.12 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

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165.01 SHORT TITLE. This chapter shall be known and may be cited as “The City of Alburnett, Iowa, Zoning Ordinance.”

165.02 PURPOSE. The purpose of this chapter is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land and to promote the health, morals, safety, and general welfare in the City.

165.03 DEFINITIONS. For the purpose of this chapter certain terms or words used herein shall be interpreted or defined as follows:

1. “Building, height of” means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs; the measurements in all cases to be taken through the center of the front of the house. Where a dwelling is situated on ground above the curb level such height shall be measured from the level of the adjoining ground, provided the distance from the building to the street line is not less than the height of the adjoining ground above the curb level. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken from the mean elevation.
2. “Dwelling, multiple” means a building or portion thereof used or designed as a residence for three or more families or households living independently of each other.
3. “Dwelling, private” means a detached building designed for or occupied exclusively by one family.
4. “Dwelling, two family” means a detached or semi-detached building designed for or occupied exclusively by two families.
5. “Dwelling” means a building used as the living quarters for one or more families, not including auto courts, rooming homes, or tourist homes.
6. “Frontage” means all the property abutting upon one side of a street between two intersecting streets, measured along the street line.
7. “Garage, private” means a garage with the capacity for not more than three self-propelled vehicles for storage only. Provided, however, a private garage may not exceed 900 square feet in area in a residential classification and shall be of wood frame construction in any residential classification.

8. "Garage, public" means a garage other than a private garage used for housing or care of more than four self-propelled vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.
9. "Garage" means a building or portion thereof used for housing or care of self-propelled vehicles.
10. "Non-conforming use" means a building or land occupied by a use that does not conform with the regulations of the use district in which it is situated.
11. "Public right-of-way" means the area of a platted street which is no less than 60 feet in width, extending 30 feet in either direction from the center line of the street.
12. "Set back" means the minimum horizontal distance between a lot line and a building or structure located upon such lot, as required by the provisions of this chapter.
13. "Story" means that part of any building comprised between any floor and the floor or roof next above. In case any floor or the combined area of floors at any one level extends over less than 20 percent of the horizontal area included within the outside walls at that level, the same shall not be considered as a floor for the purpose of determining story heights.
14. "Structure" means a combination of materials other than a building to form a construction that is safe and stable and includes among other things stadiums, platforms, radio towers, sheds, storage bins, fences, signs, and chicken coops.
15. "Used" or "Occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
16. "Yard" means an open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provided herein.
 - A. "Front yard" means a yard between the building and the front line of the lot, excluding all street and public right-of-way.
 - B. "Rear yard" means a yard, unoccupied except by an accessory building as hereinafter permitted, extending across the full width of the lot between the rear line of the building and the rear line of the lot.
 - C. "Side yard" means a yard between the building and the sideline of the lot and extending from the street line to the rear yard.

165.04 ESTABLISHMENTS OF DISTRICTS. The City is hereby divided into the following types of districts:

1. R-1 Residential District – One family residential district.
2. R-2 Residential District – Two family residential district.
3. R-3 Residential District – Mobile Home Park (**See Chapter 146**)
4. M-1 Residential District – Multiple family residential district
5. B-1 Business District – Retail business district.
6. I-1 Industrial District – Any type of manufacturing or other similar plant area in the City.
7. A-1 Agricultural District – Agricultural and other permitted uses.

Such districts are bounded and defined as shown on a map entitled "Zoning Map of City of Alburnett, Iowa," adopted on January 16, 2012, and certified by the City Clerk, which map is hereby made a part of and incorporated into this chapter with all explanatory matter therein.

165.05 APPLICATION OF REGULATIONS. Except as hereinafter provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered:
 - A. To exceed the height;
 - B. To accommodate or house a greater number of families;
 - C. To occupy a greater percentage of lot area; or
 - D. To have narrower or smaller rear yards, side yards, front yards than are specified herein for the district in which such building is located.
3. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

165.06 ADMINISTRATION AND ENFORCEMENT. This chapter shall be enforced by the Mayor or Building Inspector or such other person or agency designated by the City Council for that purpose. No building permit or certificate of occupancy shall be issued by them except where the provisions of this chapter have been complied with.

165.07 PERMITS AND CERTIFICATES OF OCCUPANCY. No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy and a building permit shall have been issued by the Building Inspector in accordance with the provisions of this chapter and the building code.

165.08 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby created. The Board of Adjustment shall consist of five members, each to be appointed for a term of five years, excepting that when the Board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. The Board shall elect a chairman from its membership, and appoint a secretary. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Matters of procedure, powers, and judicial review relating to this Board are regulated by statute.

165.09 POWERS OF BOARD OF ADJUSTMENT. The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
2. To hear and decide special exceptions to the terms of the chapter upon which such Board is required to pass under such chapter.
3. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal

enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of the chapter shall be observed and substantial justice done.

165.10 REVIEW OF VARIANCES BY CITY COUNCIL. Variances granted by the Board of Adjustment shall be reported by the chairperson of the Board to the next regular meeting of the City Council. The effective date of a variance granted by the Board of Adjustment shall be immediately following such meeting of the City Council. The City Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is delayed for 30 days from the date of the remand. Appeal of a final decision of the Board of Adjustment shall be by petition to a court of appropriate jurisdiction.

165.11 GENERAL PROCEDURES FOR BOARD OF ADJUSTMENT. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public. Decisions by the Board shall require an affirmative vote of at least three members of the Board. The Board shall keep minutes of its proceedings, showing the vote of each member, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. All such materials shall be public record.

165.12 NONCONFORMING BUILDINGS AND USES. The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform with the provisions of this chapter. However, a nonconforming use which is permitted to continue under this section may not be substantially altered in a manner which would result in an increased negative impact on surrounding land users in that zoning district.

165.13 ABANDONMENT. Whenever a nonconforming use has been discontinued for a period of two years, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this chapter.

165.14 R-1 RESIDENTIAL DISTRICTS.

1. The following uses of land are permitted in all R-1 Residential Districts:
 - A. One family dwelling units.
 - B. Churches and places of worship and parochial schools.
 - C. Public schools, public libraries, parks, and playgrounds.
 - D. Police and fire stations.
 - E. Greenhouses and customary agricultural operations, but no livestock or fowl are to be raised in the district.
 - F. Small home occupations, provided that there shall be no signs or other evidence of such use other than a small announcement or professional sign not over two square feet in size, and operation does not violate the provisions of any other City ordinance.
 - G. Other customary accessory uses and buildings provided such uses are incidental to the principal use and do not include any activity conducted as a business.
2. Density of Population. Lot area in R-1 residential districts shall not be less than 8,000 square feet and lot width not less than 80 feet. There shall be no more than one dwelling placed on each lot of the above size.
3. Percentage of Lot Covered By Buildings, Dwellings, And Other Structures. All dwellings or other structures, including accessory buildings located in R-1 residential districts, shall not cover more than 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.
4. Height of Buildings. No dwelling or other structure shall be erected to a height in excess of 35 feet.
5. Yards and Other Open Spaces. Each lot shall have front, side, and rear yards not less than the following depth and width:
 - A. Front yard depth of 25 feet.
 - B. Each side yard width of seven feet, total side yards of 14 feet except that a detached garage may be located within four feet of a side lot line.
 - C. Rear yard depth of 25 feet.
 - D. Buildings on corner lots must be set back 25 feet on the side street as well as the front street.

165.15 R-2 RESIDENTIAL DISTRICTS.

1. The following uses of land are permitted in all R-2 Residential Districts:
 - A. All uses permitted in R-1 residential districts subject to all the restrictions specified in R-1 districts.
 - B. Rooming and boarding houses, bed and breakfast tourist homes.
 - C. Hospitals and sanitariums.
 - D. Cemetery and the necessary incidental structures with the approval of the Board of Adjustment and subject to such conditions as are deemed appropriate by such Board.
 - E. Customary agricultural operations including a garden, nursery, greenhouse, and usual farm buildings, subject to the following restrictions:
 - (1) No building in which farm animals are kept shall be closer than 200 feet to any adjoining lot line.
 - (2) No storage of manure or odor or dust-producing substance or use shall be permitted within 100 feet of any adjoining lot line.
 - (3) No greenhouse heating plant shall be operated within 75 feet of any adjoining lot line.
 - (4) No products shall be publicly displayed or offered for sale from the roadside.
 - F. Public utility structures necessary for the service of the area.
 - G. One sign advertising the sale or rent of buildings upon which it is located. Such sign shall not exceed six square feet in area and shall be distant from the street line not less than one-half the front yard depth.
 - H. Two-family dwellings.
 - I. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business, unless otherwise provided for.
2. Density of Population. Lot area shall not be less than 5,000 square feet and lot width not less than 50 feet. There shall be no more than one dwelling placed on each lot of the above size.
3. Percentage of Lot Covered By Buildings, Dwellings, and Other Structures. All dwellings or other structures, including accessory buildings located in R-2 residential districts, shall not cover more than 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.
4. Height of Buildings. No dwelling or other structure shall be erected to a height in excess of 45 feet or exceed three stories, unless hereinafter provided.
5. Yards and Other Open Spaces. Each lot shall have front, side, and rear yards not less than the following depth and width:
 - A. Front yard depth of 25 feet.
 - B. Each side yard width of five feet
 - C. Rear yard depth of 25 feet.

D. Buildings on corner lots must be set back 25 feet on the side street as well as the front street.

6. Distance Between Buildings On Same Plot. No principal buildings shall be closer to any other principal building than the average of the heights of said buildings.

7. Automobile Storage or Parking. There shall be provided automobile storage or parking spaces equal to not less than one and one-half automobile parking spaces for each family unit in such structure provided; however, that no front yard shall be used for the open air parking or storage of any motor vehicle.

165.16 R-3 MOBILE HOME RESIDENTIAL DISTRICTS. Refer to Chapter 146 of this Code of Ordinances.

165.17 M-1 MULTIPLE-FAMILY DISTRICTS.

1. The following uses of land are permitted in all M-1 residential districts:
 - A. Any use permitted in the R-1 or R-2 residential districts.
 - B. Fraternity and sorority houses.
 - C. Multiple family dwellings.
 - D. Accessory buildings customarily incidental to any of the above uses not involving the conduct of a business, including private storage garages.
2. Density of Population. Lot area in M-1 residential districts shall not be less than 10,000 square feet and lot width not less than 100 feet. There shall be no more than one dwelling placed on each lot of the above size.
3. Percentage of Lot Covered By Buildings, Dwellings, and Other Structures. All dwellings and other structures, including accessory buildings located in M-1 residential districts, shall not cover more than 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.
4. Height of Buildings. No building shall exceed two and one-half stories or 35 feet in height.
5. Yards and Other Open Spaces. Each lot shall have front, side, and rear yards not less than the following depth and width:
 - A. Front yard depth of 25 feet.
 - B. Side yards in M-1 districts shall be as follows:
 - (1) Each two-family dwelling shall have a minimum single side yard width of seven feet and a minimum total side yard width of 14 feet.
 - (2) Each multiple family dwelling shall have a minimum single side yard width of 10 feet and a minimum total side yard width of 25 feet.Rear yard depth of not less than 10 percent of the depth of the lot.
6. Automobile Storage or Parking. Off street parking must be provided equivalent to one and one-half automobile parking spaces, but not less than 40 square feet, for each family unit. The computation as to parking spaces shall be raised to the next highest number, if the original computation ends in a fraction. Parking spaces may not be located within the area of the required front yard. The same parking uses permitted in R-1 or R-2 residential districts shall be the same for M-1 residential districts.

165.18 B-1 BUSINESS DISTRICTS.

1. The following regulations and uses permitted shall apply to all general business districts:

A. All uses permitted in any residential district subject to all the provisions specified for such residential districts.

B. Stores and shops for the conducting of any lawful retail business.

C. Taverns.

D. Personal service shops.

E. Banks, theaters, offices, restaurants.

F. Garages and filling stations upon the approval of the Board of Adjustment and subject to such conditions and safeguards as deemed appropriate by such Board and upon the securing of a permit therefore, subject to the following provisions:

(1) Pumps, lubricating, or other devices are located at least 20 feet from any street line or highway right-of-way.

(2) All fuel, oil, or similar substances are stored at least 35 feet distant from any street or lot line.

G. Wholesale businesses engaged in storing products in bulk and warehouses for such materials as: building material; contractors equipment; farm equipment and implements; clothing; drugs; feed; hardware; or similar products.

H. The wholesale or bulk storage of petroleum and other explosive or combustible mixtures is permitted subject to conformance to all rules and regulations promulgated by the Fire Chief and fire or safety ordinances pertinent to the storage of such products.

I. Other uses permitted:

(1) Advertising signs and billboards.

(2) Amusement places.

(3) Apartment houses.

(4) Auction rooms.

(5) Bakeries.

(6) Electric repair shops.

(7) Freight stations.

(8) Hotels.

(9) Laundries.

(10) Blacksmith and locksmith shops.

(11) Telegraph and telephone service stations.

(12) Painting and decorating shops.

(13) Photographic galleries.

(14) Plumbing shops.

(15) Police and Fire department stations.

- (16) Post offices.
- (17) Printing shop.
- (18) Railroad passenger station.
- (19) Recreation buildings and structures.
- (20) Roofing and plastering shops or both.
- (21) Sales and/or show rooms.
- (22) Shoe repair shops.
- (23) Undertaking establishments.
- (24) Other uses which in the opinion of the Board of Adjustment are of the same general character as those listed above as permitted uses and which will not be detrimental to the district in which they are located.

2. Density of Population. Lot area in B-1 business districts shall not be less than 24 feet in width and 50 feet in depth.

3. Percentage of Lot Covered By Buildings, Dwellings, and Other Structures. No building with its accessory building, to be used for said commercial purposes, shall occupy in excess of 90 percent of the area of the lot.

4. Height of Buildings. No building shall be erected to a height in excess of 50 feet.

5. Yards and Other Open Spaces. Each lot shall have front, side, and rear yards not less than the following depth and width:

A. Commercial establishments shall have a rear yard of not less than 10 percent of the depth of the lot and a side yard (if provided) of not less than three feet in width.

B. Residential buildings shall have a lot area and lot width, front, side, and rear yards equal to that required in the least restricted district for the same type of dwelling. (R-2 for single-family dwellings. M-1 for multi-family dwellings.)

165.19 I-1 INDUSTRIAL DISTRICTS.

1. The following uses and regulations are permitted in all I-1 industrial districts:
 - A. All uses not otherwise prohibited by law, except any residential use or uses otherwise prohibited by ordinance.
 - B. Junk yards or automobile wrecking yards, scrap iron, scrap paper, or rag storage. Sorting or baling must be enclosed within a fence, or by other means of concealment as approved by the Board of Adjustment.
2. **Uses Prohibited.** All uses of land, buildings, and structures or industrial processes are prohibited that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration, or similar substances or conditions. And, in general, those uses which have been declared a nuisance in any court of record, or which may be unreasonable, obnoxious, unhealthful, or offensive by reason of the emission of odor, dust, smoke, or noise.
3. **Review by Board of Adjustment.** The above prohibitions are subject to review by the Board of Adjustment and such uses may be permitted, if approved by the Board and subject to the securing of a permit therefore and to such conditions, restrictions, and safeguards as may be deemed necessary for the purpose of protecting the health, safety, morals, or general welfare of the community.
4. **Height of Buildings.** No building in this district shall exceed three stories or 45 feet in height.
5. **Yards and Other Open Spaces.** Each lot shall have a front yard not less than 25 feet in depth.

165.20 A-1 AGRICULTURAL DISTRICTS.

1. The following uses of land are permitted in all A-1 agricultural districts:
 - A. Agricultural uses for general farming, including general agricultural activities, truck farms, nurseries, green houses, orchards, boarding and riding stables, and kennels, provided:
 - (1) Any sales of products not raised or produced on the premises shall be clearly subordinate to sales of products raised or produced on the premises.
 - (2) No poultry or livestock shall be housed, kept, or confined within 100 feet of any residence or residential zoning district.
 - (3) Only animals raised on the premises may be rendered, slaughtered, or dressed.
 - B. Residential uses as follows:
 - (1) Single-family detached dwellings.
 - (2) Home occupations.
 - C. Public, quasi-public, and governmental buildings and facilities as follows:
 - (1) Golf courses and country clubs when located on at least 10 acres, but not including commercial driving ranges, pitch and putt, or miniature golf courses.
 - (2) Public parks and playgrounds, public and private game and forest preserves, and similar conservation facilities.
 - D. Churches, synagogues, chapels, and similar places of religious worship and instruction, when located in a permanent structure on a site of at least one acre.
 - E. Public elementary, junior high, and senior high schools and private non-boarding schools having a curriculum similar to that in the permitted public schools.
2. Density of Population. Lot area in A-1 agricultural districts shall not be less than one acre and minimum lot width shall be 150 feet.
3. Height of Buildings. No building in this district shall exceed 35 feet in height.
4. Yards and Other Open Spaces. Each lot shall have a front and side yard not less than the following depth and width:
 - A. Front yard depth of 50 feet.
 - B. Side yard width of 10 feet.
 - C. Buildings on corner lots must be set back 50 feet on the side street as well as the front street.

165.21 AMENDMENTS TO THIS CHAPTER. The boundaries of districts as now established and the regulations thereof may be amended, supplemented, changed, or repealed by the City Council from time to time either upon its own motion or upon recommendation of the Planning and Zoning Commission. Provided:

1. No such amendment, supplement, or change shall be adopted until after a notice thereof is duly posted or published by the law of this State.
2. When a proposed amendment, supplement, or change does not originate with the Planning and Zoning Commission, the same shall be submitted to said Commission 30 days in advance of the date on which action is taken, for its recommendation thereon.
3. This requirement shall not act as a stay upon the proposed action by the City Council where said Commission fails to submit its recommendation to the Council within 30 days after receiving written notice requesting the same.

165.22 FENCE AND HEDGE REGULATIONS.

1. Fences and hedges when located within a front, side or rear yard, or within five feet of a lot line shall be subject to the following location and height restrictions:

- A. No portion of a fence shall exceed seven feet in height.
- B. Fence and hedges shall be located so no part thereof is within three feet of an alley or three feet of a street right-of-way.
- C. In residential districts, fences within the front yard shall not exceed four feet in height.
- D. Fences may be erected or maintained along a surveyed lot line on residential zoned property or adjacent thereto. Before issuing a non-fee permit for a fence proposed to be located on, or within three feet of, a lot line that is shared by two different property owners, the City will require the following conditions be met:

- (1) The owners of the properties that share a lot line on which the proposed fence will be located must sign a written agreement that outlines the conditions of the fence placement.
- (2) The agreement must be returned with the permit application to the Clerk before the permit will be issued. It should then be filed by the property owners with the County Recorder.
- (3) If agreement cannot be reached between the owners of the properties that share a lot line on which the proposed fence will be located, any fence constructed on either property must be a minimum of three feet from the said shared lot line.

2. Swimming pools, hot tubs, and landscape pools with a depth of 18 inches or more shall require a fenced enclosure or securable, hard cover in accordance with the following requirements:

- A. Fences must be at least four feet in height from ground level but not to exceed seven feet from the top rim of the pool, and have no spaces that would allow a four inch diameter sphere to pass through. Where the fence is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the fence shall be four inches.
- B. Fences must have a self-closing and self-latching device on the gate.

- C. Fences must be located so no part thereof is within three feet of an alley or three feet of a street right-of-way.
- D. A securable, hard cover must include built-in safety locks and be rated by the manufacturer to comply with ASTM F 134.
- 3. Barbed wire and electric fences shall be subject to the following requirements:
 - A. Barbed wire and electric fences shall not be allowed in residential or commercial zones.
 - B. Barbed wire and electric fences shall be prohibited within five feet of a public sidewalk or within four of a street right-of-way where a public sidewalk does not exist.
 - C. Electric fences shall not be permitted in any district except for the enclosure of livestock operations in Agricultural zones, (A-1).
 - D. No electric fence shall carry a charge greater than 25 milliamperes nor a pulsating current longer than one-tenth per second in a one-second cycle. All electric fence chargers shall carry the seal of an approved testing laboratory.
- 4. Visibility at Intersection. On a corner lot in any agricultural or residential district, no fence, wall, hedge, or other planting, sign, or structure that will obstruct vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersecting street shall be erected, placed, or maintained within the triangular area formed, the right-of-way lines as such corner and a straight line joining said right-of-way lines at points which are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
- 5. Temporary Fencing. No permit will be required for temporary fencing.
- 6. Chain link fences shall have knuckled edges on the top and bottom.
- 7. Facing: The finished surfaces of any fence shall face toward adjacent properties and street frontage. All supports, including posts, must be placed on the inside of the fence, opposite of the finished surface.

165.23 SUPPLEMENTAL REGULATIONS.

- 1. Permitted Encroachment in Yards.
 - A. Every part of a required yard shall be open to the sky except where accessory buildings are permitted and except for the ordinary projections from principal buildings of sills, belt courses, cornices, fireplace chimneys, gutters, and downspouts, and ornamental features projecting not to exceed 24 inches.
 - B. A roof or deck may project into a required side yard, provided that every part of such structure is unenclosed and is removed at least five feet from the nearest side lot line.
 - C. A covered porch or a paved terrace, including a roof, roof extension, or canopy associated therewith, may project into a front yard for a distance not exceeding five feet that the sides of such porch or terrace are unenclosed. A balcony located about the ground floor may project into a front yard a distance not exceeding five feet, provided that no steps associated with the balcony are located in the front yard.
 - D. Open or lattice-enclosed fire escapes, fire-proof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may project not more than five feet into the rear yard, provided that such projection does not obstruct light and ventilation.

E. Solar energy collectors and heat storage units to supply building may project into the required rear or side yard not to exceed 24 inches but shall not project into the required front yard.

F. Detached accessory buildings and structures shall:

- (1) Not be located in a required front yard.
- (2) If located partially or completely between the side lot line and the main building on the lot, detached accessory buildings and structures shall meet the minimum side yard requirements established for the principal building to which it is accessory
- (3) Not be closer than 3 feet to another lot line. However a roof or canopy of an accessory building may project in to a required side yard a point one-third the distance to the lot line from an exterior wall.
- (4) Shall not occupy more than 40 percent of the required rear yard.
- (5) Be set back from any adjacent street in accordance with the minimum distance required for a principal building on a lot.
- (6) No portion of an accessory building shall be located closer than three feet to the principal building.
- (7) The height of accessory buildings shall not exceed the maximum height limits set for permitted uses in the district.

G. Air conditioning units and furnaces to supply the building may project into the required side yard not to exceed 36 inches, but shall not project into the required front yard.

H. Platforms, porches, patios, or open decks not over any basement or story and no supporting roof or unusual loads may project into a required rear yard, provided that every part of such structure is unenclosed and is removed at least 13 feet from the rear lot line.

EDITOR'S NOTE			
The "Zoning Map of City of Alburnett, Iowa," adopted January 16, 2012, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 PURPOSE. The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety, and general welfare of the citizens of the City.

170.02 POLICY. It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the City to provide for the orderly, efficient and economical development of the City. And further:

1. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
2. It is intended that these subdivision regulations shall supplement and facilitate the enforcement of provisions and standards, ordinances, or regulations of the City.

170.03 APPLICATION. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into three or more parts, for the purpose of laying out an addition, subdivision, building lot or lots, acreage, or suburban lots within the City or within two miles from the corporate limits of the City, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots herein contained or placing the plat on record.

170.04 INTERPRETATION. In their interpretation or application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Specifically:

1. These regulations are not intended to interfere with or to abrogate or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
2. These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.

170.05 ACTION UNDER PRIOR PROVISIONS. These regulations do not abate any action now pending under or by virtue of prior existing subdivision regulations. Nor do they discontinue, abate, modify, or alter any penalty accrued or about to accrue or affect the liability of any person or waive any right of the City under any section of provision existing at the time of adoption of these regulations. Nor do they vacate or annul any rights obtained by any person by lawful action of the City except as expressed in these regulations.

170.06 PROCEDURE. In obtaining final approval of a proposed subdivision by the Council, the subdivider shall submit a preliminary plat in accordance with the requirements in this chapter and install the required improvements or provide a performance bond.

170.07 TERMS DEFINED. For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the masculine gender shall include the feminine, the term “shall” is always mandatory, and the term “may” is permissive.

1. “Acquisition plat” means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. “Aliquot part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one quarter, one-half of one quarter, or one quarter of one quarter shall be considered an aliquot part of a section.
3. “Alley” means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
4. “Auditor’s plat” means a subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.
5. “Block” means an area of land within a subdivision that is entirely bounded-by streets, railroad right-of-way, rivers, tracts or public land, or the boundary of the subdivision.
6. “City Engineer” means the professional engineer registered in the State of Iowa designated as City Engineer by the Governing Body or other hiring authority.
7. “Comprehensive Plan” means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Governing Body. Such “Comprehensive Plan” shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

8. "Conveyance" means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.
9. "Cul-de-sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
10. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
11. "Easement" means an authorization by a property owner for another to use a designated part of his property for a specified purpose.
12. "Flood hazard area" means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100 year flood; as designated by the Iowa National Resources Council or the Federal Insurance Administration.
13. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100 year flood without cumulatively raising the waterway surface elevation more than one foot.
14. "Forty acre aliquot part" means one-quarter of one quarter of a section.
15. "Governing body" means the City Council of the City of Alburnett, Iowa.
16. "Government lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
17. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.
18. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
19. "Lot, corner" means a lot situated at the intersection of two streets.
20. "Lot, double frontage" means any lot that is not a corner lot that abuts two streets.
21. "Metes and bounds description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
22. "Official plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the recorder, auditor, and assessor.
23. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
24. "Parcel" means a part of a tract of land.
25. "Performance bond" means a surety bond or cash deposit made out to the City of Alburnett in an amount equal to the full cost of the improvements which are required by this chapter, said cost being estimated by the City Engineer, and said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with this chapter.

26. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.
27. “Planning & Zoning Commission” means the appointed commission designed by the Governing Body for the purpose of this chapter.
28. “Plat” means a map drawing, or chart on which a subdivider’s plan for the subdivision of land is presented, that he or she submits for approval and intends, in final form, to record.
29. “Plats Officer” means the individual assigned the duty to administer this chapter by the Governing Body or other appointing authority.
30. “Plat of survey” means the graphical representation of survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
31. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.
32. “Resubdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
33. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bonded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
34. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
35. “Street, collector” means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
36. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
37. “Subdivision” means the division of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context may refer to the process of subdividing or to land subdivided.
38. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.
39. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the *Code of Iowa*.
40. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.
41. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, and stormwater.

170.08 IMPROVEMENT REQUIRED. The subdivider shall, at his or her expense, install and construct all improvements required by this chapter. All required improvements shall be installed

and constructed in accordance with the design standards established for such improvements by the City and the City Engineer, and as shown on the approved preliminary plat.

170.09 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this chapter by the City Engineer. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City. The subdivider shall furnish the Council with a construction schedule prior to the commencement of any and all construction, and notify the City not less than 24 hours in advance of readiness for required inspections.

170.10 RELEASE OR REDUCTION OF PERFORMANCE BOND. The performance bond may not be released or reduced except as follows:

1. The Council will not accept dedication of required improvements, nor release nor reduce a performance bond, until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer has certified to the City through submission of detailed "as built" plans of the subdivision indicating location, dimensions, materials, and other information required by the City, that all public improvements are in accordance with construction plans for the subdivision.
2. A performance bond may be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for plat.

170.11 DESIGN STANDARDS ARE MINIMUM. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangements and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the subdivision, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant, and durable neighborhood.

170.12 CONFORMANCE TO APPLICABLE RULES AND REGULATIONS. In addition to the requirements established herein, all subdivides shall comply with the following laws, rules, and regulations.

1. All applicable statutes of the State.
2. Any comprehensive plan, public utilities plan, and capital improvements program of the City.
3. The requirements and rules of State agencies such as the State Department of Natural Resources, State Department of Health, and the State Department of Transportation, where applicable.
4. The standards and regulations of the County Board of Supervisors and County commissions, boards, and agencies where applicable.
5. The standards and regulations adopted by the Council, boards, commissions and agencies of the City.
6. Plat approval may be withheld if a subdivision is not in conformance with the above guides or policy and purposes of these regulations.

170.13 STORM SEWERS AND DRAINAGE. The following requirements shall apply to the provision of storm sewers and drainage:

1. The Council shall not approve any plat of a subdivision which does not make adequate provision for storm or flood water run-off channels or basins. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods as approved by the Council, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that a surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

2. The applicant may be required by the Council to carry away by pipe or open ditch any spring or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

A. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of stormwaters, subject to the specifications of the Council. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved outfall.

B. If a connection to a public storm sewer will be provided eventually, as determined by the Council, the subdivider shall make arrangement for future stormwater disposal by a public storm sewer system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

C. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Council shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by applicable zoning regulations.

D. The subdivider shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision to be approved by the City. The subdivider shall also take into account upstream drainage and its effect on the proposed subdivision. These drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

E. The Council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood plain of any stream drainage course.

3. The following shall apply to the dedication of drainage easements.

A. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the

purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

B. Drainage easements:

(1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the street lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to natural watercourse or to other drainage facilities.

(2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(3) The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the Council.

4. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in the areas for dedication, shall be persevered and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the area requirement of any lot.

170.14 WATER FACILITIES. Water facilities shall be provided as follows:

1. The following general requirements shall apply to the provision of water facilities:

A. Where a public water main is accessible the subdivider shall install adequate water facilities, including fire hydrants, subject to City specification. All water mains shall be at least six inches in diameter.

B. Water main extensions shall be approved by the City.

C. To facilitate the above, the location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat.

2. The following requirements shall apply to the provision of individual wells and central water systems:

A. In the discretion of the Council, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the appropriate County or State agency for testing, and individual wells and central water systems shall be approved by the appropriate County or State health authorities. Orders of approval shall be submitted to the Council.

B. If the Council requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.

3. Fire hydrants shall be required for all subdivisions except those coming under Subsection 2 of this section. Fire hydrants shall be located no more than 300 feet apart and shall be approved by the City.

170.15 SEWAGE FACILITIES. Sewage facilities shall be provided as follows:

1. The applicant shall install sanitary sewer facilities in a manner prescribed by the City construction standards and specifications. All plans shall be designed in accordance with the rules, regulations, and standards of the City and State Department of Natural Resources or State Department of Health. Plans shall be approved by the above agencies.

2. Sanitary sewage systems shall be constructed as follows:

A. Where a public sanitary sewage system is reasonably accessible, the applicant shall connect with the same and provide sewers accessible to each lot in the subdivision.

B. Where public sanitary sewage systems are not reasonably accessible but will become available within a reasonable time, not to exceed 15 years, the applicant may choose one of the following alternatives:

(1) Install a central sewage system, operated and maintained by the benefited property owners. Where plans for future public sanitary sewage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains.

(2) Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

C. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of 15 years, the applicant shall install individual disposal systems or central sewage systems.

3. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of applicable zoning regulations and those regulations. Percolation test and test holes shall be made as directed by the City and results submitted to the local board of health.

4. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

170.16 SIDEWALKS. The following requirements shall apply to the provision of sidewalks:

1. Sidewalks shall be included within the dedicated nonpavement right-of-way of all streets.

2. Sidewalks shall be improved as required in Chapter 136 of this Code of Ordinances.

3. All sidewalks shall be constructed to current ADA standards.

170.17 UTILITIES. The following shall apply to the provision of utilities:

1. The Council may require that all utility facilities, including, but not limited to, gas, electric power, telephone, and CATV cables, be located underground through the subdivision. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

2. Easements shall be provided as follows:

A. Easements centered on rear lot lines shall be provided for utilities. Such easements shall be at least 10 feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 10 feet in width shall be provided alongside lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.

170.18 PRESERVATION OF NATURAL FEATURES AND AMENITIES. Existing features which would add value to residential development or to the City as a whole, such as trees, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be protected against change of grade.

170.19 NONRESIDENTIAL SUBDIVISIONS. The following provisions shall apply to nonresidential subdivisions:

1. If a proposed subdivision includes land that is used for commercial or industrial proposes, the layout of the subdivision with respect to such land shall make such provision as the Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Council, and shall conform to the proposed land use and standards established in City plans and regulations.

2. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

A. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

B. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

C. Special requirements may be imposed by the City with respect to street, curb, gutter, and sidewalk design and construction.

D. Special requirements may be imposed by the City with respect to installation of public utilities, including water, sewer, and stormwater drainage.

E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

F. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

170.20 SCHOOL AND PARK RESERVATIONS. In subdividing property, consideration shall be given to suitable sites for schools, parks, or playgrounds and shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency. An area in the subdivision equal to 500 square feet per lot (0.011 acres per lot) shall be set aside and dedicated to park development for public use.

170.21 IMPROVEMENTS WITHIN UNINCORPORATED JURISDICTION. Improvements in the two mile unincorporated area under the jurisdiction of these regulations shall be the same as required herein, provided they are not less than that required by the applicable County subdivision regulations, and provided further that all construction plans shall be approved by the County, and completed public roads shall be accepted by the Board of Supervisors for public maintenance.

170.22 VARIATIONS AND EXCEPTIONS. The following shall apply to the granting of variations and exceptions:

1. Where the Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The granting of the variation will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

B. The conditions upon which the request for a variation is based upon are unique to the property for which the variation is sought, and are not applicable, generally, to other property.

C. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

D. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

2. In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

3. A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

170.23 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, that such changes or

amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law.

170.24 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City, proper maintenance bonds satisfactory to the City, so as to insure that for a period of two years from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

170.25 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS. Required improvements may be deferred or waived as follows:

1. The Council may defer or waive at the time of final approval, subject to approval, subject to appropriate conditions, the provision of any or all such improvements as in its judgment are not requisite in the interest of the public health, safety, and general welfare, and which are inappropriate because of inadequacy or lack of connecting facilities.
2. Whenever it is deemed necessary by the Council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant shall pay his or her share of the costs of the future improvements of the City prior to the approval of the final plat, or the applicant may post a bond insuring completion of said improvements upon demand of the City.

170.26 STREET STANDARDS.

1. General. The following standards shall apply to all streets to be located within the subdivision:
 - A. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.
 - B. Streets shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.
 - C. At intersections of major streets, and otherwise as necessary, lot corners abutting radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.
 - D. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Council.
 - E. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Council. The City shall install all street name signs. The applicant shall deposit with the City at the time of final subdivision approval the estimated cost of installation of each street sign required by the Council.
 - F. Installation of street lights shall be required in accordance with design and specification standards approved by the Council.
 - G. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street.

H. All arterials shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to pattern of existing proposed land uses.

I. Municipal service streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

J. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the Council, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

K. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks in the parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

L. Whenever any part of a subdivision is designed with access to a road under State or County jurisdiction, permission for access to such roads shall be obtained from the appropriate jurisdiction and such access shall be designed according to the standards of the appropriate jurisdiction.

2. Streets and dead end streets shall be in conformance with the following requirements:

A. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, and for efficient provision of utilities. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T or L shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

B. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 150 feet. However, the Council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead end street in accordance with City construction standards and specifications. For the greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

3. Where a subdivision borders on or contains an existing or proposed arterial street, the Council may require that lot access to such streets be limited by one of the following means:

A. Lots shall be designated so as to back onto the primary arterial and front onto a parallel municipal service street; no access shall be provided from the arterial street, and screening shall be provided in a strip of land along the rear property line of such lots.

B. A series of cul-de-sacs entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.

C. A frontage or service road, separated from the primary arterial by a planting or grass strip and having access thereto at suitable points.

4. Minimum Roadway and Right-of-Way Standards.

A. Municipal Arterial streets shall have a tangent at least 100 feet long shall be introduced between reverse curves on municipal arterial and municipal collector streets, and 75 feet on municipal service streets.

B. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet for municipal service and municipal collector streets, and of such greater radii as the Council shall determine for special cases.

C. Minimum Roadway and Right-of-way Standards:

(1) Municipal arterial streets shall have a right-of-way width of not less than 80 feet and a roadway width of not less than 44 feet.

(2) Municipal collector streets shall have a right-of-way width of not less than 60 feet and a roadway width of not less than 36 feet.

(3) Municipal service streets shall have a right-of-way width of not less than 50 feet and a roadway width of not less than 31 feet.

(4) Frontage streets shall have a right-of-way width of not less than 50 feet and a roadway width of not less than 31 feet.

(5) Cul-de-sacs shall meet all the requirements for a municipal service street, and in addition, shall provide a turnaround with a right-of-way radius of 50 feet and a roadway radius of 40 feet. No cul-de-sac shall exceed 500 feet in length.

D. Street grades, wherever feasible, shall not exceed the following:

(1) Municipal arterial streets – six percent.

(2) Municipal collector streets – eight percent.

(3) Municipal local streets – 10 percent.

(4) Frontage streets – six percent.

(5) All changes in street grade shall be connected by vertical curves of minimum length in feet equal to 20 times the algebraic difference in percents of grade.

(6) No street grade shall be less than one-half of one percent, unless extreme conditions warrant.

5. Street Surfacing and Improvements. After sewer, water, and other utilities to be located underground within the right-of-way have been installed by the applicant, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be of Portland concrete cement or full depth asphaltic concrete having equivalent bearing capacity. Adequate provisions shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications adopted by the City, and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

A. The pavement slab shall be constructed of the following materials:

(1) Nonreinforced Portland cement concrete conforming to the Iowa Department of Transportation C-4 mix or M-4 as applicable; or

(2) Full depth Asphaltic concrete hot mix conforming to the Iowa Department of Transportation standards for Type A surface course. Four inches of granular base material may be substituted for one inch of asphaltic concrete hot mix. The granular base material shall be a minimum of six inches thick and a maximum of 12 inches thick. The granular base material must conform to the Iowa Department of Transportation standards for crushed stone special backfill.

(3) The recommended pavement thickness in inches is as outlined in the following table:

S t r e e t C l a s s i f i c a t i o n	P o r t l a n d C e m e n t C o n c r e t e	F u l l D e p t h A s p h a l t i c C o n c r e t e
A r t e r i a l	9" *	11" *
C o l l e c t o r	8"	10"

L o c a l	7"	9"
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* Thickness requirements for arterials are intended as a guide only. Specific projects will be designed on the basis of soil conditions and projected traffic loading.

B. The curb and gutter shall be constructed of Portland cement concrete to a thickness as required for respective street classification and shall be required on both sides of all streets with one driveway entrance per lot.

C. The curbs and gutter cross section shall consist of 6-inch vertical curb with a 2'-6" concrete gutter which includes the curb. Where the street paving is integral Portland cement concrete, then there shall be no separation between the curb and gutter section and the paving. A four inch roll over curb is not acceptable.

D. A minimum of two sets of concrete test cylinders for each 500 cubic yards of paving but no less than one set per day, shall be made. A test shall consist of three test cylinders. Slump and air content tests shall be made at the frequency of one test per 200 cubic yards and the results recorded along with appropriate test cylinder information. Cylinders shall be laboratory cured, and conform with ASTM specification C31 and C39.

E. The subgrade shall be scarified to a depth of 12 inches below the pavement, and compacted to 95 percent of Standard Proctor Density for Portland cement concrete pavement and to 95 percent of Standard Proctor Density for Asphaltic cement concrete pavement.

F. The subgrade in fill shall be 95 percent of Standard Proctor Density.

G. Successful compaction density tests shall be conducted one per every 150 linear feet of street subgrade per eight-inch fill lift and at locations to be selected by the City Engineer.

6. Excess Right-of-Way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three to one.

7. Railroads and Limited Access Highways. Railroad right-of-ways and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

A. In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

B. In districts zoned for business, commercial, or industrial uses the nearest street extended parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

8. Intersections. The following standards shall apply to the design of intersections:

A. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. No more than two streets shall intersect at any one point unless specifically approved by the Council.

B. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jobs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least 800 feet apart.

C. Minimum curb radius at the intersection of two municipal service streets shall be at least 20 feet; and minimum curb radius at an intersection involving a municipal collector street shall be at least 25 feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

D. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent rate at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.

E. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

F. The cross-slopes on all streets, including intersections, shall be three percent or less.

9. Bridges. Bridges of primary benefit to the applicant, as determined by the Council, shall be contracted at the full expense of the applicant without reimbursement from the City. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Council, will be fixed by special agreement between the Council and the applicant. Said expense shall be charged to the applicant pro rata as the percentage of his or her land developed and so served.

10. Alleys. The following design standards for alleys shall be required of all subdividers:

A. Alleys shall be prohibited in residential districts.

B. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with the uses proposed.

C. Alleys shall have a right-of-way of not less than 30 feet and a roadway width of not less than 20 feet.

D. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

E. Dead-end alleys shall be avoided where possible, but if avoidable, shall be provided with adequate turnaround facilities at the dead-end, as determined by the Council.

11. Dedications and Reservations. The following provisions shall apply to street dedications and reservations:

A. Street system in new subdivision shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his or her own subdivision boundaries.

B. Where a subdivision borders an existing narrow street or when City plans or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his or her expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any street purpose may not be counted in satisfying yard or area requirements of the zoning regulations whether the land is to be dedicated to the City in fee simple or an easement is granted to the City.

170.27 BLOCK AND LOT STANDARD. The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions.

1. No residential block shall be longer than 2,000 feet or shorter than 500 feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easement.

2. In blocks over 700 feet in length, the Governing Body may require a public way or an easement at least 10 feet in width, at or near the center of the block, for use by pedestrians.

3. In blocks over 800 feet in length, the Council may require the reservation of an easement to accommodate utilities, drainage facilities or pedestrian traffic.

4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.

5. The size of all lots shall comply with the following, but in no case shall a lot contain less than 8,000 square feet of an area or be less than 80 feet wide measured at the building line:

A. Residential lots where not served by public sewer shall be of sufficient size, as determined by the City and subject to any applicable State or County rules or regulations, to accommodate the type of private sewage disposal system proposed by the developer.

B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Corner lots for residential use shall have an extra 20 feet of width to permit appropriate building setback from and orientation to both streets.

6. All lots shall abut a public street or an approved private street.

7. Unless unavoidable, lots shall not front, or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the Governing Body, a variation to this provision will provide a better street and lot layout.

9. Reversed frontage and double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

10. Pedestrian crosswalks, not less than 10 feet wide, may be required by the Council through the center of blocks more than 800 feet in length. Pedestrian crosswalks shall not exceed 12 percent in grade unless steps of an approved design are to be constructed.

170.28 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Engineer and other City officials responsible for the administration of these regulations to be advised of the procedural steps, design standards, required improvements and platting requirements. During such meetings, no commitments shall be made which will be binding upon the City.

170.29 REQUIREMENTS OF THE PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk three copies of the preliminary plat, drawn at a scale of one inch equals 100 feet or larger. Sheet size shall not exceed 24 inches by 36 inches. Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point, and date.
2. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships, and range lines or corners. Exterior boundaries are to be indicated with a solid heavy line.
3. Present and proposed streets, alleys, and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights, fire hydrants, and street signs.
4. Proposed layout of blocks and lots, showing dimensions, radii, chords and the square foot areas of lots that are not rectangular, and the lot and block numbers in numerical order.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public, or community purposes.
7. Present and proposed easements, showing locations, widths, purpose, and limitations.
8. Location and names of adjoining parcels of unsubdivided and subdivided land.
9. Boundaries of the highest known flood of record affecting the subdivision and the source of information.
10. If the proposed subdivision borders on a lake or stream, the distances and bearings of meander lines established not less than 20 feet back from the mean high water mark of the lake or stream.
11. Existing blocks, lots and buildings.
12. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation, and location of each. If the subdivision is within one mile of public sewer or water or both, notation shall be made of the direction and distance to such facilities.

13. Proposed name of the subdivision.
14. Names and addresses of the owner, subdivider, builder, and surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat.
15. Official legal description of the property being platted.
16. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the Council waives this requirement.
17. Existing and proposed zoning of the proposed subdivision and adjoining property.
18. Location of all proposed monuments.
19. Information to be Provided in Accompanying Material. The following information shall accompany a plat when filing:
 - A. A complete listing of all existing covenants which apply to the land to be subdivided, and a complete listing of all covenants which are proposed by the developer to apply to the subdivided land.
 - B. A table of the following information:
 - (1) Total acreage of the subdivision.
 - (2) Total number of lots.
 - (3) Minimum, average, and maximum lot area.
 - (4) Acreage of public lands to be dedicated or reserved other than streets.
 - C. An attorney's opinion showing that the fee title to the property proposed for subdividing is in the owner's name as shown on the plat and showing any encumbrances that may existing against the land.
 - D. If any portion of the subdivision is to have access on a State or County jurisdiction street, a written and signed statement acknowledging and permitting the access by the duly authorized official of the appropriate jurisdiction.
 - E. Specifications and engineering construction drawings including profiles, cross-sections, and details of all public improvements. Elevations shall be referred to mean sea level as exhibited in standard U.S. Geological Survey Maps. Specifications and references shall meet those required by the City's construction and specification standards, including a site grading plan for the entire subdivision.

170.30 PROCEDURE FOR REVIEW OF PRELIMINARY PLATS.

1. The subdivider shall prepare a preliminary plat in accordance with the provisions of this Code of Ordinances (previous section) and shall file with the Clerk an application in triplicate for the tentative approval of the plat. The application shall:
 - A. Be made on forms available from the Clerk together with a fee established by the City Council.
 - B. Be accompanied by a minimum of 10 copies of the preliminary plat.
 - C. Be presented to the Clerk at least four weeks prior to the regular meeting of the Council.

2. The Clerk shall immediately refer two copies of the preliminary plat to the City Engineer and seven copies to the Council. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the preliminary plat to the County Board of Supervisors.

3. The preliminary plat shall be reviewed by the council to determine its conformity with these regulations and all other ordinances and regulations in force affecting subdivisions. Copies of the preliminary plat may be transmitted to other City or school officials, as the Council deems necessary, for their recommendations concerning matters within their jurisdiction. Their recommendations, along with those of the City Engineer, shall be transmitted to the Council within three weeks from the date the plat is filed. The Council may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made.

170.31 ACTION BY THE COUNCIL. Within 30 days of the receipt of the preliminary plat, the Council shall, by resolution, tentatively approve or disapprove the plat. If the preliminary plat is disapproved, the Clerk shall notify the subdivider of such action. If approved, the Clerk shall affix his or her signature to five copies of the preliminary plat with the notation of the date the preliminary plat received the Council's tentative approval. Three copies shall be returned to the subdivider. The "tentative approval" by the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

170.32 DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the Governing Body shall be valid for a period of one year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the Governing Body.

170.33 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

170.34 PERFORMANCE BOND PERMITTED. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the City, guaranteeing that improvements not completed shall be completed within a period of one year from the date of approval of such final plat; but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed. Such performance bond shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution. The Council may extend the completion date set forth in the bond for a maximum period of one additional year. Also, the Council in its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to approving the final plat, and that, as an alternative, the applicant post a bond at the time of application for final plat approval in an amount estimated by the Council as sufficient to secure to the City the satisfaction of construction, installation, and dedication of the uncompleted portion of required improvements. In addition:

1. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of exaction as set forth in these regulations.

2. The period within which required improvements must be completed shall be specified by the Council in the resolution approving the final plat, shall be incorporated in the bond, and shall not exceed one year from date of final approval.
3. The performance bond shall be approved by the Council as to the amount and surety and conditions satisfactory to the Council. The Council may, upon proof of difficulty, extend the completion date set forth in such bond for a maximum period of one additional year. The Council may at any time during the period of such bond accept a substitution of principle and sureties on the bond.
4. The applicant shall build and pay for all costs of temporary improvements acquired by the Council. Prior to the construction of any temporary facility or improvement, the developer shall file with the City a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.
5. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Council in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

170.35 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

170.36 SUBDIVISION NAME. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Council shall have the final authority to designate the name of the subdivision which shall be determined at preliminary plat approval.

170.37 REQUIREMENT OF THE FINAL PLAT. The following graphic and descriptive material is required to be provided on the final plat and in the accompanying material.

1. Every plat of a subdivision offered for record shall conform to all of the following provision where applicable:

A. The plat shall be a permanent copy or photographic print made on a stable plastic film. Exact copies of the plat to be recorded shall be provided to and filed with the County Recorder, Assessor, and Auditor. The original plat drawing shall remain the property of the registered land surveyor.

B. The size of each sheet showing any portion of the subdivided lands shall not be greater than 18 inches by 24 inches nor less than eight and one-half by 11 inches.

C. Whenever more than one sheet is used to accurately portray the lands subdivided, each sheet shall display the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the other sheets adjoin. An index shall be provided to show the relationship between sheets.

D. A maximum scale of 100 feet to one inch shall be used. The scale used shall be clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.

E. Subdivisions shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.

F. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plat, as well as the scale and date.

G. All monuments to be of record shall be adequately described and clearly identified on the plat. When additional monuments are to be established subsequent to the recording of the plat, the location of the additional monuments shall be shown on the plat.

H. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.

I. All distances shall be shown in feet to the nearest one-hundredth of a foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.

J. The course of every boundary line shown on the plat shall be indicated by the direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line having shown course. All bearings and angles shown shall be given to at least the nearest minute of arc.

K. Curve data shall be stated in terms of radius, central angle and tangent, or length of curve. In all cases, the curve data must be shown for the line affected.

L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

M. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much

certainty as can be determined or as more or less, if variable. In all cases, the true boundary shall be clearly indicated on the plat.

N. All interior excepted parcels shall be clearly indicated and labeled, “not a part of this plat.”

O. All adjoining properties shall be identified and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part of the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

P. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities, including gas, power, telephone, water, sewer and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

Q. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

R. The purpose of all areas dedicated to the public must be clearly indicated on the plat.

S. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor’s direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor’s Iowa registration number or seal.

T. Street names and clear designation of public alleys.

U. Block and lot numbers.

V. Name and address of owner and subdivider.

W. Accurate dimensions of any property to be dedicated or reserved for public use.

X. The plat shall be signed and acknowledged by the subdivision land owner and his or her spouse.

Y. A sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

2. Information to be Provided in Accompanying Material. The following material shall be submitted with the final plat:

A. A correct legal description of the subdivision land;

B. A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds;

C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of a mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens, or

other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

E. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

G. A certificate by the City Engineer that all required improvements and installations have been completed according to the construction plans submitted with the preliminary plat, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

H. The encumbrance bond, if any.

170.38 SUBMISSION OF FINAL PLAT. The subdivider shall prepare a final plat in accordance with the provisions of Section 465.18 of the *Code of Iowa* and shall file with the Clerk an application in triplicate for the final approval of the plat. The application shall:

1. Be made on forms available from the Clerk together with a fee of \$10.00 per lot.
2. Be accompanied by a minimum of 10 copies of the final plat.
3. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities and easements, in a form approved by the City Attorney.
4. Be presented to the Clerk at least four weeks prior to the regular meeting of the Council.

170.39 REFERRAL OF FINAL PLAT. The Clerk shall immediately refer two copies of the final plat to the City Engineer and seven copies to the Council. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the final plat to the County Board of Supervisors.

170.40 ACTION BY THE COUNCIL. The Council shall, within 60 days, either approve or disapprove the final plat.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider shall cause such plat to be recorded in the office of the County Recorder of the County where the land to be subdivided is located, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

170.41 RESUBDIVISION OF LAND. The following requirements shall govern the resubdividing of land.

1. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved for public use indicated on

the map, or any lot line, or if it affects any map or plan legally established prior to the adoption of any regulations controlling subdivision, such parcel shall be approved by the same procedure, rules and regulations as for a subdivision.

2. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Council may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

170.42 MONUMENTATION. Monuments shall be in conformance with the following requirements:

1. Prior to the offering of the plat of any subdivision for record, the surveyor shall confirm the prior establishment of permanent control monuments at each controlling corner on the boundaries of the parcel or tract of land being subdivided. If no permanent control monuments exist, the surveyor shall establish at least two permanent control monuments for each block created, or if the area subdivided into lots is less than a block in size, at least two permanent control monuments shall be established for the subdivision. Permanent control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of the monument.

2. Other monuments established prior to the recording of the plat of the subdivision and described on the plat shall be considered monuments of record and shall be given the same weight as original permanent control monuments if the monuments remain undisturbed in their original positions. The additional monuments shall be constructed and embedded according to the provisions for permanent control monuments according to the provisions for permanent control monuments prescribed in the previous subsection.

3. Monuments other than the permanent control monuments required in Subsection 1 of this section shall not be required to be established before the recording of the plat or the conveyancing of lands by reference to the plat if the registered land surveyor includes in the surveyor's statement on the plat that the additional monuments required by these regulations shall be established before a specified future date.

4. Additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in Subsection 1 of this section, and shall be set in all of the following locations whether set prior to the recording of the plat, or subsequent to such recording:

- A. At every corner and angle point of every long block, or parcel of land created.
- B. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way.
- C. At every point of curve, tangency, reversed curve, or compounded curve on every right-of-way line established.

5. When the placement of a monument required by this chapter at the prescribed location is impractical, it is permissible to establish a reference monument in close proximity to the prescribed location. If the reference monument is established prior to the recording of the plat and its location properly shown on the plat, the reference monument shall have the same status as other

monuments of record. Where any point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the surveyor. The existing monument shall be considered a monument of record when properly shown and described on the recorded plat.

170.43 CHARACTER OF THE LAND. Land which the City finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easement, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or its surrounding areas or both, shall not be subdivided or developed unless adequate methods are formulated by the subdivider and approved by the Council to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

170.44 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council, provided that such changes and amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law.

170.45 ENFORCEMENT, VIOLATIONS, AND PENALTIES. No plat or subdivision within the City or within two miles thereof shall be filed or recorded with the County, nor shall any plat or subdivision have any validity until it complies with the provisions of these regulations, has been approved by the Council as herein set forth, and further:

1. No more than two building permits for each separate tract existing at the time of the effective date of these regulations shall be issued unless the tract has been platted in accordance with these regulations; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by applicable land use regulations such as zoning and restricted residence regulations or additions or improvements to a main or accessory building already legally located upon said tract.
2. Any person who shall dispose of or offer for sale or lease any lots in the City or addition to the City, until the plat thereof has been acknowledged and recorded as provided in these regulations, shall forfeit and pay \$50.00 for each lot and part of lot sold or disposed of, leased, or offered for sale.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF ALBURNETT, IOWA, BY ADDING A NEW SECTION
LIMITING PARKING TO 30 MINUTES ON A PORTION OF
_____ STREET

BE IT ENACTED by the City Council of the City of Alburnett, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Alburnett, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBURNETT, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Alburnett, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Alburnett, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALBURNETT, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

BE IT ENACTED by the City Council of the City of Alburnett, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Alburnett, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$ _____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____**AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL
DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO
ALBURNETT, IOWA**

Be It Enacted by the City Council of the City of Alburnett, Iowa:

SECTION 1. The (location or legal description of street or alley) to Alburnett, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

CODE OF ORDINANCES, CITY OF ALBURNETT, IOWA

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Alburnett, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Alburnett, Iowa, will meet on the ____ day of _____, 20____, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Alburnett, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Alburnett, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Alburnett, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ____ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Alburnett, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Alburnett, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER
REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Alburnett, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on
_____,
(Name of Property
Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent,

(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

CODE OF ORDINANCES

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BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,
(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

CITY OF ALBURNETT, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____

Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY

____ FEE PAID
____ PLOT DIAGRAM SUBMITTED
____ PLAN SUBMITTED
____ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS _____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____

PRESENT USE: _____

PROPOSED USE: _____

A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.

I have read Chapter _____ of the Code of Ordinances of Alburnett, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

(Applicant's Signature)

CITY OF ALBURNETT, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO. _____ (Date)

APPLICATION NO. _____
(Date of Application)

LOCATION _____

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ____,
“BUILDING AND LAND USE REGULATIONS” OF THE CODE OF ORDINANCES OF
ALBURNETT, IOWA.

APPROVED BY COUNCIL _____ (Date)

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

CITY OF ALBURNETT, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE _____

APPLICATION NO. _____

APPLICATION NO. OF BUILDING/LAND USE PERMIT _____

APPLICANT: _____

ADDRESS: _____

TELEPHONE NO. (Business) _____
(Home) _____

Signature of Applicant

Signature of Building Official

CITY OF ALBURNETT, IOWA

CERTIFICATE OF OCCUPANCY

NO. _____

☐ PERMANENT

☐ TEMPORARY

DATE: _____

C.O. APPLICATION NO. _____

BUILDING/LAND USE PERMIT NO. _____

DATE ISSUED: _____

LOCATION _____

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER _____ OF THE CODE OF ORDINANCES OF _____, IOWA, AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

THIS CERTIFICATE ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

