

CHAPTER 1
CODE OF ORDINANCES

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

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

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 Titonka, Iowa.
3. "Clerk" means the city clerk of Titonka, 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 Titonka, Iowa.
6. "Council" means the city council of Titonka, Iowa.
7. "County" means Kossuth County, Iowa.
8. "Measure" means an ordinance, amendment, resolution or motion.
9. "Month" means a calendar month.
10. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Titonka, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Preceding" and "following" mean next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. "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.
21. "State" means the State of Iowa.
22. "Statutes" and "laws" mean the latest edition of the Code of Iowa, as amended.
23. "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.
24. "Writing" or "written" includes printing, typing, lithographing, or other mode of representing words and letters.
25. "Year" means a calendar year.

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code 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 the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.
2. May. The word “may” confers a power.
3. Must. The word “must” states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender shall include the feminine and neuter genders.
6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.
7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the 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.

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

1.10 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than two hundred dollars (\$200.00) or imprisonment not to exceed thirty (30) days.

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

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

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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

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

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four (4) years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

EDITOR'S NOTE

Ordinance No. 521 adopting a charter for the City was passed and approved by the Council on June 7, 1973, and published in the *Titonka Topic*, Titonka, Iowa, on June 14, 1973.

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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 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$500.00

B. Each Repeat Offense – Not to exceed \$750.00

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

2. Special Civil Penalties.

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

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

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

3.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, 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 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy 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.

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

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

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

(Code of Iowa, Sec. 364.22[11])

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CHAPTER 5
OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

2. **Prescribed Oath.** The prescribed oath is: “I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Titonka 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 office:

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

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

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

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

(Code of Iowa, Sec. 64.13)

2. Bonds Approved. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.19)
3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23[6])
4. Record. The Clerk shall keep a book, to be known as the “Record of Official Bonds” in which shall be recorded the official bonds of all City officers, elective or appointive.
(Code of Iowa, Sec. 64.24[3])

5.03 DUTIES – GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13[4])

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.
(Code of Iowa, Sec. 22.2 & 22.3A)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer’s custody and appertaining to that office.
(Code of Iowa, Sec. 372.13[4])

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda, shall be given.
(Code of Iowa, Sec. 21.4)
2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.
(Code of Iowa, Sec. 21.3)
3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The

vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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[1])

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[2])

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

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

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 contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result

of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

(Code of Iowa, Sec. 362.5[5])

5. Newspaper. The designation of an official newspaper.

(Code of Iowa, Sec. 362.5[6])

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[7])

7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.

(Code of Iowa, Sec. 362.5[8])

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

(Code of Iowa, Sec. 362.5[9])

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

(Code of Iowa, Sec. 362.5[4])

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[11])

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[12])

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

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

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.

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

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled, at the Council's option, by one of the two following procedures:

(Code of Iowa, Sec. 372.13 [2])

1. Appointment. By appointment following public notice by the remaining members of the Council within forty (40) days after the vacancy occurs, except that if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

(Code of Iowa, Sec. 372.13 [2a])

2. Election. By a special election held to fill the office for the remaining balance of the unexpired term as provided by law.

(Code of Iowa, Sec. 372.13 [2b])

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)

CHAPTER 6
CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Each eligible elector who signs a nominating petition shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition shall not sign it. Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the Secretary of State and shall include information required by the Code of Iowa.

(Code of Iowa, Sec. 45.3)

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])

CHAPTER 7
FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims

and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the

requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

(IAC, 545-2.2 [384, 388])

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

(IAC, 545-2.3 [384, 388])

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

(IAC, 545-2.4 [384, 388])

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

(IAC, 545-2.4 [384, 388])

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

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

2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Checks shall be prenumbered and signed by two persons holding the following positions: City Clerk, Mayor or Mayor Pro Tem following Council approval, except as provided by subsection 5 hereof.
(Ord. 625 – Mar. 11 Supp.)
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 first 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

CHAPTER 7

FISCAL MANAGEMENT

annual report must be filed with the Auditor of State not later than December 1 of each year.
(Code of Iowa, Sec. 384.22)

CHAPTER 8
URBAN RENEWAL

EDITOR'S NOTE

Ordinance No. 594, adopted November 4, 2004, established the Titonka Economic Development District Urban Renewal Project Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

[The next page is 65]

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of four (4) 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 fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.
7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.
9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

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

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is fifteen hundred dollars (\$1500.00) per year. Effective January 1, 2012, the salary of the Mayor is two thousand dollars (\$2,000.00) per year. (Ord. 615 - Feb. 09 Supp.)

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16
MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor Pro Tem is 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 employ, or discharge from employment, officers or employees that the Mayor has the power to appoint, employ or discharge without the approval of the Council.

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

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

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

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

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

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CHAPTER 17

COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 372.4 & 376.2)

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

1. General. All powers of the City are vested in the Council except as otherwise provided by law or ordinance.
(Code of Iowa, Sec. 364.2[1])
2. Fiscal Authority. The Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.
(Code of Iowa, Sec. 364.2[1], 384.16 & 384.38 [1])
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 adopted by resolution of the Council.
(Code of Iowa, Sec. 384.100)
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 twenty-five thousand dollars (\$25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

D. If the Mayor vetoes an ordinance, amendment or resolution and the Council repasses the measure after the Mayor's veto, a

resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.

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

E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen (14) days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen (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. 380.4)

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

(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])

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. Zoning Board of Adjustment
5. Zoning Administrative Officer

17.06 COMPENSATION. The salary of each Council member is thirty dollars (\$30.00) for each Council meeting attended, plus thirty dollars (\$30.00) for each additional meeting attended. Effective January 1, 2010, the salary of each Council member is fifty-five dollars (\$55.00) for each Council meeting attended, plus thirty dollars (\$30.00) for each additional meeting attended.

(Ord. 614 – Feb. 09 Supp.)

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

CHAPTER 18
CITY CLERK

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

18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

18.01 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 (2) 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. The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting 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 claim.

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

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

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

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

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

the date of the election, hearing or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such

officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments which by ordinance and Code of Ordinances are required to be attested by the affixing of the seal.

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:

1. In the event of a change in the method of nomination process used by the City, certify to the Commissioner of Elections the type of nomination process to be used by the City no later than seventy-seven (77) days before the date of the regular City election.

(Code of Iowa, Sec. 376.6)

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

(Code of Iowa, Sec. 376.4)

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

(Code of Iowa, Sec. 376.4)

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

(Code of Iowa, Sec. 376.4)

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o'clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

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

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 and shall establish by resolution the City Attorney's compensation.

(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 which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.

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

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

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

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

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

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

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

CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five (5) members. At least one (1) member is required to be a resident of the City and one (1) member is required to be a resident of Kossuth County living outside of the City limits. The other three (3) members of the Board may be either residents of the City or residents of Kossuth County living outside of the City limits. All resident members are to be appointed by the Mayor with the approval of the Council. All nonresident members are to be appointed by the Mayor with the approval of the Kossuth County Board of Supervisors. *(Ord. 635 – Jun. 14 Supp.)*

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. All nonresident members of the Board shall be bona fide citizens and residents of Kossuth County living outside of the City limits. Members shall be over the age of eighteen (18) years. *(Ord. 635 – Jun. 14 Supp.)*

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

1. Term of Office. All appointments to the Board shall be for three (3) years, except to fill vacancies. Each term shall commence on July 1. Two (2) appointments shall be made every year, with one (1) appointment every third year to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. However, if said resident Trustee moves to a place within Kossuth County, said Trustee may remain a Trustee if the Mayor deems it appropriate to have that occur and the Council approves the Mayor's decision. In addition, this shall only be allowed if there remains at least one (1) resident Trustee on the Board. The position of a nonresident Trustee shall be vacated if such

member moves permanently from Kossuth County. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or a temporary absence from the City or County. Vacancies on the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

(Ord. 635 – Jun. 14 Supp.)

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds (2/3) vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City on behalf of the Library.

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings.

13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation,

private or semiprivate organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.

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

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

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

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

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

21.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary. The check-writing officer is the Clerk.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

21.11 THEFT. No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.
(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

22.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

22.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced 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. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

7. 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 whatsoever which are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

8. 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)

9. 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, disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

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CHAPTER 23
RECREATION COMMISSION

23.01 Purpose
23.02 Recreation Commission Members
23.03 Term of Members
23.04 Vacancies

23.05 Compensation
23.06 Powers and Duties
23.07 Accounting of Funds

23.01 PURPOSE. The purpose of this chapter is to provide for a Recreation Commission for the City to manage the fitness center.

23.02 RECREATION COMMISSION MEMBERS. The Recreation Commission, hereinafter referred to as the Commission, consists of five (5) members, who shall be residents of the City. All Commission members are to be appointed by the Council. The members of the Commission shall be any adult citizen of the City of Titonka who does not hold an elected municipal office.

23.03 TERM OF MEMBERS. The term of office for the members of the Commission shall be three (3) years. When the first five (5) Commission members are appointed, one (1) Commission member shall serve one (1) year, two (2) Commission members shall serve two (2) years and two (2) Commission members shall serve three (3) years. Each term shall commence on January 1. Any member may be removed from the Commission without cause at any time by a two-thirds (2/3) majority vote of the Council.

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

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

23.06 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 (1) 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.
2. Meetings. All meetings shall be open to the public. The Commission shall adopt its own rules of procedure and keep a written

record of their meetings. A majority of the members shall constitute a quorum for the transaction of business. The Chairperson shall notify the City Clerk of the Commission's agenda and the City Clerk shall then give notice as required by the Code of Iowa.

3. Adopt Rules and Regulations. The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary. The Commission may also adopt rules governing the use by the public of the fitness center facilities and equipment the Commission has control over. All rules and regulations shall be made readily available to the public.

4. Control of Equipment. The Commission shall have charge of the fitness center equipment, and be responsible for the maintenance of said equipment, used for recreation within the City.

5. 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 whatsoever which are received by the City for the fitness center.

6. 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, disbursements and the progress of its work during the preceding fiscal year.

7. Other Powers and Duties. The Commission shall have such powers and perform such other duties as may be provided by the Council, the Ordinances of the City or the laws of the State of Iowa.

23.07 ACCOUNTING OF FUNDS. The City Clerk shall be responsible for the accounting of the funds received and expended by the Commission.

(Ch. 23 – Ord. 611 – Dec. 08 Supp.)

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CHAPTER 30
POLICE DEPARTMENT

30.01 Department Established	30.07 Police Chief: Duties
30.02 Organization	30.08 Departmental Rules
30.03 Peace Officer Qualifications	30.09 Summoning Aid
30.04 Required Training	30.10 Taking Weapons
30.05 Compensation	30.11 Contract Law Enforcement
30.06 Peace Officers Appointed	

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

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

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

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

30.06 POLICE CHIEF APPOINTED. The Mayor shall appoint the Police Chief.

(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

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

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

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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

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

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CHAPTER 35
FIRE DEPARTMENT

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

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

35.04 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all

fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

35.10 ACCIDENTAL INJURY INSURANCE. The Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire

fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

CHAPTER 36

EMERGENCY AMBULANCE SERVICE

36.01 Purpose	36.07 Worker's Compensation and Liability Insurance
36.02 Service Established	36.08 Providing Service Outside the Corporate Limits
36.03 Election of Officers	36.09 Fees Established
36.04 Powers and Duties of Ambulance Service	36.10 Calculation of Fees
36.05 Compensation	36.11 Payment of Fees
36.06 Employment Status	

36.01 PURPOSE. The purpose of this chapter is to provide for emergency ambulance service to preserve and protect the health, safety and welfare of the general public.

36.02 SERVICE ESTABLISHED. There is hereby established an ambulance service owned and operated by the City.

36.03 ELECTION OF OFFICERS. The ambulance service shall elect from its members such officers as may be necessary to conduct and supervise the operation of the ambulance service.

36.04 POWERS AND DUTIES OF AMBULANCE SERVICE. Officers of the ambulance service shall have the power and authority to conduct and supervise the operation of the ambulance service. The power and authority of the ambulance service officers shall include:

(Code of Iowa, Sec. 392.1)

1. Personnel. The selection of personnel to provide the service voluntarily and providing an accurate list of such persons, revised at the end of each calendar quarter.
2. Training. Designating personnel, with Council approval, to attend schools and courses concerned with ambulance service and all reasonably related subjects.
3. Purchase of Equipment. Recommending to the Council the purchase of such equipment as the officers deem necessary for the proper operation of the service.
4. Maintenance of Equipment. Maintaining the vehicles and equipment.
5. Expenditures. Incurring expenses within the allowed budget of the service, subject to claim approval by the Council.

6. Other. Performing all other acts which are reasonably necessary to the operation of the ambulance service and the maintenance of the equipment.
7. Annual Report. Submitting to the Mayor and Council a comprehensive report of the operation of the service and the status of the equipment, including a complete equipment inventory, in July of each year.

36.05 COMPENSATION. Officers of the ambulance service and operating personnel shall be compensated under the terms of a schedule of compensation to be adopted by the Council pursuant to recommendations of the ambulance service officers. In addition, officers of the ambulance service and operating personnel shall be reimbursed for actual expenses incurred by them in the performance of their duties, upon presentation of proper claims to the Council.

36.06 EMPLOYMENT STATUS. Officers of the ambulance service and personnel providing ambulance service shall be considered to be employees of the City while in the performance of all duties and services reasonably connected with the operation of the ambulance service, for the purpose of the application of worker's compensation statutes and for the purpose of the application of liability insurance coverage.

36.07 WORKER'S COMPENSATION AND LIABILITY INSURANCE. The City shall purchase sufficient insurance to cover the officers of the ambulance service and all personnel providing ambulance service under the worker's compensation statutes of the State and shall purchase sufficient insurance to protect the City against loss from damages or public liability resulting from the operation of the ambulance service. The amount of such insurance shall be determined by the Council.

36.08 PROVIDING SERVICE OUTSIDE THE CORPORATE LIMITS. The ambulance service herein established is authorized to respond to calls outside the corporate limits of the City. The ambulance service is authorized to transport patients to such locations as may be necessary in individual circumstances.

36.09 FEES ESTABLISHED. The fees for ambulance service and reasonably related emergency services furnished within or without the City shall be established by resolution of the Council.

36.10 CALCULATION OF FEES. The City Clerk shall calculate and render bills for ambulance service and all reasonably related services rendered pursuant to the schedule of fees fixed by the Council.

36.11 PAYMENT OF FEES. All ambulance service fees and fees and charges for reasonably related emergency services shall be due and payable upon presentation of a statement for said fees and charges to the user and/or recipient of the service, and shall be paid to the Clerk. Actions for collection of fees and charges shall be brought in the name of the City, after authorization of commencement of action by the Council, in the same manner as other actions at law.

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CHAPTER 45
PUBLIC OFFENSES

45.01 Assault	45.12 Antenna and Radio Wires
45.02 Harassment	45.13 Barbed Wire and Electric Fences
45.03 Disorderly Conduct	45.14 Discharging Weapons
45.04 Unlawful Assembly	45.15 Throwing and Shooting
45.05 Failure to Disperse	45.16 Criminal Mischief
45.06 Urinating and Defecating	45.17 Defacing Proclamations or Notices
45.07 Distributing Dangerous Substances	45.18 Unauthorized Entry
45.08 False Reports to or Communications with Public Safety Entities	45.19 Trespassing Prohibited
45.09 Refusing to Assist Officer	45.20 Fraud
45.10 Harassment of Public Officers and Employees	45.21 Theft
45.11 Abandoned or Unattended Refrigerators	45.22 Fireworks Permit
	45.23 Residency Restriction for Sex Offenders

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

1. Pain or Injury. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which 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 which 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])

However, where the person doing any of the above 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 or serious injury or breach of the peace, the act is not an assault. Provided, where the person doing any of the above 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, the act is not an assault, 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)

45.02 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, or writing 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 such 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.

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

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that

participants in athletic contests may engage in such conduct which is reasonably related to that sport.

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

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

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

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

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

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

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

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

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

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.

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

7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

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

45.04 UNLAWFUL ASSEMBLY. It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

45.06 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 public or private land.

45.07 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)

45.08 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.

45.09 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)

45.10 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)

45.11 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)

45.12 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])

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

45.14 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB 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.

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

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

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

(Code of Iowa, Sec. 716.1)

45.17 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)

45.18 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.

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

(Code of Iowa, Sec. 716.7 and 716.8)

1. **Entering Property Without Permission.** 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.

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

2. **Entering or Remaining on Property.** 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 by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

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

3. **Interfering with Lawful Use of Property.** Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

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

4. **Using Property Without Permission.** Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate,

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

45.20 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)

45.21 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)

45.22 FIREWORKS PERMIT. The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

(Code of Iowa, Sec. 727.2)

45.23 RESIDENCY RESTRICTION FOR SEX OFFENDERS.
(Repealed by Ordinance No. 621 – Oct. 09 Supp.)

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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 which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. This is an objective standard. It shall, therefore, be 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 eighteen (18) years.

D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate

authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

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

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.

G. "Unemancipated" means unmarried and/or still under the custody or control of a responsible adult.

2. Curfew Established. It is unlawful for any minor age fourteen (14) or younger 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 after eleven o'clock (11:00) p.m. on any day.
3. Exceptions. The following are exceptions to the curfew:
 - A. The minor is accompanied by a responsible adult.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end of work;
 - (2) Minor's place of religious activity or, if traveling, within one hour after the end of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end of the activity;

- (4) School activity or, if traveling, within one hour after the end 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 of the activity.
- D. The minor is on an emergency errand for a responsible adult;
- E. The minor's business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.
- 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 peace officer on the street shall, in the first instance, use his or her best judgment in determining age.
 - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
 - C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise

of such person to produce the child in court at such time as the court may direct.

D. **Minor Without Adult Supervision.** If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace 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 Police Chief shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

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

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

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

7. **Notice.** Notice of the ordinance codified in this section and its contents may be posted in or about such public or quasi-public places as may be designated by the Council or the Police Chief in order that the public may be constantly informed of the existence of such ordinance and its regulations.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes.

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

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

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

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Nuisances Prohibited
50.04 Nuisance Abatement
50.05 Notice to Abate: Contents
50.06 Method of Service

50.07 Request for Hearing
50.08 Abatement in Emergency
50.09 Abatement by City
50.10 Collection of Costs
50.11 Installment Payment of Cost of Abatement
50.12 Failure to Abate

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 which 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, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue,

highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**

8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

9. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

10. Dutch Elm Disease. Trees infected with Dutch Elm Disease.

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

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

13. The making available of food, salt, mineral blocks or other products for ingestion by wild or stray animals, except that the following actions shall not be considered a nuisance:

A. Elevated bird/squirrel feeders providing seed, grain, fruit, worms or suet for birds or squirrels.

B. Standing crops planted and left standing as food plots for wildlife.

C. Grain or other feed scattered or distributed solely as a result of normal agricultural, gardening, or soil stabilization practices.

D. Standing, flooded, or manipulated natural vegetation or food/seed deposited by natural vegetation.

(Ord. 627 – May 11 Supp.)

50.03 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)

50.04 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

50.05 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

50.06 METHOD OF SERVICE. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

50.07 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.

50.08 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 which may be required under this chapter without prior notice. The City shall assess the costs as provided in

Section 50.10 after notice to the property owner under the applicable provisions of Sections 50.04, 50.05 and 50.06 and hearing as provided in Section 50.07.

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

50.09 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])

50.10 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 (1) 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])

50.11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

50.12 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.

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.

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; 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 which has 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 which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

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

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, excepting 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 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 within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

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

1. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
2. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.
(Code of Iowa, Sec. 717.1)
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

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

55.10 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 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 which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

55.12 CONFINEMENT. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it 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 two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

55.13 SUMMONS ISSUED. The owner of any dog or other animal shall be issued a summons to appear before a proper court to answer charges of permitting such dog or animal to be at large in violation of this chapter.

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

(Ord. 608 – Feb. 08 Supp.)

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are \$35.00 for the first day or any part thereof, and \$15.00 per day thereafter.

(Ord. 608 – Feb. 08 Supp.)

(Code of Iowa, Sec. 351.37)

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CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Dangerous Animal Exceptions

56.04 Keeping of Vicious Animals Prohibited

56.05 Seizure, Impoundment and Disposition

56.06 Violation; Penalty

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

1. "Dangerous animal" means:
 - A. Badgers, wolverines, weasels, skunk and mink;
 - B. Raccoons;
 - C. Bats;
 - D. Scorpions;
 - E. Pit bull terriers, including the following:
 - (1) The Bull Terrier breed of dog;
 - (2) The Staffordshire Bull Terrier breed;
 - (3) The American Pit Bull Terrier breed;
 - (4) The American Staffordshire Terrier breed;
 - (5) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or
 - (6) Any dog which has the appearance and characteristics of being predominately of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.
 - F. Rottweilers and Doberman pinschers (miniature pinschers allowed).
2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons; or (b) could not be controlled or restrained by the owner at the

time of the attack to prevent the occurrence; or (c) has attacked any domestic animal or fowl.

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the City except in accordance with Section 56.03.

56.03 DANGEROUS ANIMAL EXCEPTIONS. The provisions of Section 56.02 of this chapter are not applicable to owners, keepers or harborers of Pit Bull dogs, Dobermans or Rottweilers owned on or before February 14, 2008. The keeping of such dogs, however, is subject to the following standards:

1. Leash and Muzzle. No person shall permit a Pit Bull dog, Doberman or Rottweiler to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet. No person shall permit a Pit Bull dog, Doberman or Rottweiler to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash and unless such person is at least eighteen years of age. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all Pit Bull dogs, Dobermans or Rottweilers on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
2. Confinement. All Pit Bull dogs, Dobermans or Rottweilers shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen or kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine Pit Bull dogs, Dobermans or Rottweilers must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house Pit Bull dogs, Dobermans or Rottweilers must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
3. Confinement Indoors. No Pit Bull dog, Doberman or Rottweiler may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the

windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

4. Signs. All owners, keepers or harborers of Pit Bull dogs, Dobermans or Rottweilers within the City shall within ten (10) days of the effective date of the ordinance codified herein display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animals.

5. Insurance. All owners, keepers or harborers of Pit Bull dogs, Dobermans or Rottweilers within the City shall provide to the Clerk proof of liability insurance in a single incident amount of \$100,000.00 for bodily injury to or death of any person or persons or for damages to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Proof of insurance shall be provided to the Clerk on an annual basis. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days' written notice is first given to the Clerk. *(Ord. 631 – Jul. 12 Supp.)*

6. Identification Photographs. All owners, keepers or harborers of Pit Bull dogs, Dobermans or Rottweilers must provide to the Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

7. Reporting Requirements. All owners, keepers or harborers of Pit Bull dogs, Dobermans or Rottweilers must report the following information in writing to the Clerk as required herein:

A. The removal from the City or death of a Pit Bull dog, Doberman or Rottweiler;

B. The birth of offspring of a Pit Bull dog, Doberman or Rottweiler;

C. The new address of a Pit Bull dog, Doberman or Rottweiler owner should the owner move within the corporate City limits.

8. Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a Pit Bull dog, Doberman or Rottweiler to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of a Pit Bull dog, Doberman or Rottweiler may sell or otherwise dispose of a dog or the offspring of such dog to persons who do not reside within the City.

9. Animals Born of Pit Bull Dogs, Dobermans or Rottweilers. All offspring born of Pit Bull dogs, Dobermans or Rottweilers must be removed from the City within six (6) weeks of the birth of the animal.

10. Irrefutable Presumptions. There shall be an irrefutable presumption that any Pit Bull dog, Doberman or Rottweiler or any of those breeds prohibited by Section 56.02 of this chapter is in fact a dog subject to the requirements of this section.

11. Failure to Comply. It is unlawful for the owner, keeper or harbinger of a Pit Bull dog, Doberman or Rottweiler to fail to comply with the requirements and conditions set forth in this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the immediate removal of the animal from the City.

12. Violations and Penalties. Any person violating or permitting the violation of any provisions of this section shall be in violation of this Code of Ordinances. In addition, the court shall order the dog removed from the City. Should the defendant refuse to remove the dog from the City, the Magistrate shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

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

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

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
3. The order to remove a dangerous animal or vicious animal issued by the Mayor may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Mayor.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor. Such determination shall be contained in a written

decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

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

56.06 VIOLATION; PENALTY. In addition to any other penalties provided in this chapter, any person who violates any of the provisions of this chapter may be penalized in one or more of the following ways:

1. A person who violates any of the provisions of this chapter shall upon conviction be guilty of a simple misdemeanor.
2. A violation of any portion of this chapter shall be a municipal infraction, unless the violation would be a felony or a serious misdemeanor or aggravated misdemeanor under the laws of the State of Iowa.
3. A person who violates any portion of this chapter may be subject to other appropriate remedies such as Court Orders to abate and/or halt the violations.

(Ch. 56 Added by Ord. 608 – Feb. 08 Supp.)

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CHAPTER 60
TRAFFIC CODE

60.01 Title	60.07 Obstructing View at Intersections
60.02 Definitions	60.08 Special Speed Zones
60.03 Administration and Enforcement	60.09 Angle Parking
60.04 Power to Direct Traffic	60.10 Snow Emergency
60.05 Parades Regulated	60.11 Arrest or Citation
60.06 Traffic Control Devices	60.12 Open Containers in Motor Vehicles

60.01 TITLE. This chapter may be known and cited as the “Titonka Traffic Code.”

60.02 DEFINITIONS. Where words and phrases used in this 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. “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.
2. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
3. “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.
4. “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.
5. “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

60.04 POWER TO DIRECT TRAFFIC. A peace officer, and, in the absence of a peace officer, any officer of the fire department when at the scene

of a fire, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

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

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

1. “Parade” Defined. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor or Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.
4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

60.06 TRAFFIC CONTROL DEVICES. 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, load limits, quiet zones, traffic zones other than the above, 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 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.

1. Installation. The Council shall cause to be placed and maintained traffic control devices to carry out the provisions of this Traffic Code,

under State law or to regulate, guide or warn traffic. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 & 321.255)

2. Compliance. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this Traffic Code 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)

3. Necessity of Signs. No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in a viewable position and sufficiently legible to an ordinarily observant person.

4. 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)

60.07 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.

60.08 SPECIAL SPEED ZONES. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Fourth Street from Dieckman Avenue to the swimming pool parking area.

2. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. First Street West, from the west City limits eastward a distance of 215 feet.

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

(Code of Iowa, Sec. 321.361)

1. Main Street on both sides from First Street to Third Street;
2. Dieckman Avenue on the west side from Third Street to Fourth Street;
3. Fourth Avenue on the south side from Main Street to Dieckman Avenue;
4. Third Street on both sides from Main Street to Dieckman Avenue.

60.10 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during a snow emergency. The snow emergency will continue for a period of 24 hours after snow fall has ceased with the following exception: Parking will be allowed on Main Street between 1st and 3rd Avenue North immediately after the snow has been removed. Snow emergency may be declared by the Mayor or Utility Superintendent. The owner of any vehicle in violation of this section will be subject to a \$25 citation (per violation).

(Code of Iowa, 321.236[1])

(Ord. 638 – Dec. 14 Supp.)

60.11 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.

(Code of Iowa, Sec. 805.6, 321.485)

60.12 OPEN CONTAINERS IN MOTOR VEHICLES.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284)

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284A)

As used in this section “passenger area” means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

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CHAPTER 75
GOLF CARTS AND UTV'S

75.01 Purpose
75.02 Operation of Golf Cart, UTV's and ATV's
Permitted
75.03 Riding on Golf Carts

75.04 Equipment
75.05 Hours
75.06 Registration

75.01 PURPOSE. The purpose of this chapter is to approve the operation of golf carts, UTV's, and ATV's on the streets of the City.

75.02 OPERATION OF GOLF CART, UTV'S AND ATV'S PERMITTED. Golf carts, UTV's and ATV's may be operated upon the streets of the City by persons possessing a valid Iowa operator's license.

75.03 RIDING ON GOLF CARTS. A person operating a golf cart, UTV, or ATV shall not ride other than on a permanent regular seat attached thereto. No golf cart, UTV, or ATV shall be used to carry more persons at one time than the number for which it is designed and equipped.

75.04 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.

75.05 HOURS. Golf carts, UTV's and ATV's may be operated on City streets only between sunrise and sunset.

75.06 REGISTRATION. Golf carts, UTV's and ATV's operated on City streets are not required to be registered under Chapter 321 of the Code of Iowa; however, the operator of a golf cart, UTV, or ATV is subject to the financial responsibility provisions of Chapter 321A of the Code of Iowa.

(Ch. 75 – Ord. 637 –Dec. 14 Supp.)

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

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

(Ord. 598 – Oct. 05 Supp.)

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 sixty (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 CONNECTION CHARGE. There shall be a connection charge in the amount of three hundred dollars (\$300.00) 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 Division 4, Plumbing Rules and Regulations, of the State Building Code.

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

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premise may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

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

directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

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

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

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

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

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

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

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

violations have been corrected and the Superintendent has ordered the water to be turned on.

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

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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 Outside 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 customers shall be measured through meters furnished by the City and installed by the City.

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

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible 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 OUTSIDE METERS. Any resident of the City may apply to the Superintendent for a water meter for outside the building activities as long as the wastewater from said activity does not flow into the sanitary sewer.

1. Specifications. The Superintendent is authorized to develop specifications for any additional plumbing which may be required for the outside water meter.
2. Installation Costs. The cost of the water meter and any remote reading device would be fixed by the Council by resolution and could be amended from time to time as the Council deems fit.
3. Water Rates. Any resident of the City making use of an outside water meter would be charged the monthly minimum charge or the actual usage, whichever is greater for a period of eight (8) months, beginning with March 1 of each year and running until November 1 of each year. The minimum charge will be set by resolution of the Council and from time to time may be amended as the Council sees fit.
4. Ownership of Meter. The City shall retain ownership of the outside water meter; however, any resident assumes the responsibility for any damage to the outside water meter.

CHAPTER 92
WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Customer Deposits
92.10 Temporary Vacancy

92.01 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	\$14.00 (minimum bill)
All over 1,000	\$3.25 per 1,000 gallons

(Ord. 633 – Mar. 13 Supp.)

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

(Code of Iowa, Sec. 364.4[2] & 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 19th day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within twenty (20) days.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of one and one-half percent (1.5%) of the amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance. In the event that a customer's door requires posting due to nonpayment after issuance of a disconnect notice, a \$20.00 service fee shall be charged. *(Ord. 597 - Oct. 05 Supp.)*

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Superintendent and Water Committee shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If it is found that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of twenty-five dollars (\$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. *(Ord. 585 - Mar. 02 Supp.)*

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 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. The lien for nonpayment shall not apply to a residential 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 rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Code of Iowa, Sec. 384.84)

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. If the customer is a tenant and if the owner or landlord of the property 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 ten (10) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer a sixty dollar (\$60.00) deposit intended to guarantee the payment of bills for service. Upon the customer's ceasing to receive water the balance, if any, shall be refunded.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. When a property is expected to be vacant for an extended period of time, the property owner may do either of the following:

1. Request water service be temporarily discontinued and shut off at the curb valve. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies. A twenty-five dollar (\$25.00) fee shall be charged for restoring service.

(Ord. 585 – Mar. 02 Supp.)

2. Sign an agreement for temporarily out-of-service status of the meter in accordance with the City's idle meter service policy.

CHAPTER 93
WATER CONSERVATION

93.01 Declaration of Emergency
93.02 Prohibited and Restricted Use

93.03 Rate for Water Used in Violation
93.04 Punishment

93.01 DECLARATION OF EMERGENCY. The Council may declare a water conservation emergency whenever water supply or water system facilities are found to be inadequate or whenever there appears to be a substantial and imminent danger of such inadequacy. A resolution declaring such emergency shall be published for one publication in a newspaper of general circulation in the City and upon publication shall require compliance with this chapter by all persons using water from the water system until, by resolution of the Council, the emergency shall be declared to be terminated.

93.02 PROHIBITED AND RESTRICTED USE. The following uses of potable processed water from the municipal water system during a water conservation emergency are prohibited.

1. The use of water-consuming air conditioning equipment which consumes in excess of five percent (5%) of the water circulation of such equipment.
2. Watering or irrigation of lawns and all other outside vegetation except the direct applications of water not exceeding one inch per week are permitted between the hours of 10:00 a.m. and 6:00 p.m. on flower and vegetable gardens, trees and shrubs less than 4 years old, and areas which were newly seeded or sodded prior to issuance of the emergency resolution.
3. The washing of cars, trucks, trailers and other mobile vehicles or equipment except at commercial establishments which provide that service.
4. The cleaning of outdoor surfaces including buildings, sidewalks, driveways and porches.
5. The nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
6. The filling of private swimming pools, wading pools, reflecting pools, ornamental fountains or any other structure making similar use of water.

7. Permitting the loss of water through defective plumbing or fixtures, except where the customer can provide proof of prompt repair of the defect.

8. Use by a business or industry of an amount of water exceeding the amount used during the corresponding month of the preceding year except where the business or industry is declared by resolution of the Council to be necessary for the public health, safety and welfare. Where there is no corresponding period of use or where review is directed by the Council, the Superintendent shall hold a public hearing to determine the allowable use.

Nothing in this section shall prohibit the use of water which has been reclaimed or recycled after an essential primary use.

93.03 RATE FOR WATER USED IN VIOLATION. Any person found to be using City water in violation of this chapter shall be charged twice the rate which would otherwise apply. This rate shall apply to all metered service through the service connection used in the violation during any month that a water conservation emergency is declared by the Council to exist and during which the violation has occurred or continued.

93.04 PUNISHMENT. Any person found to be using City water in violation of this chapter is guilty of a misdemeanor, and each day that a prohibited and restricted use continues is a separate and distinct offense for the purpose of this chapter.

[The next page is 265]

CHAPTER 95
SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required

95.06 Service Outside the City
95.07 Right of Entry
95.08 Owner's Liability Limited
95.09 Use of Easements
95.10 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 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 which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Comment [ST1]: Page: 381
optional – end subsection here.

8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates, fees, or rentals levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the

jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within thirty (30) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) 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])

(IAC, 567-69.1[3])

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

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

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

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

95.08 OWNER'S LIABILITY LIMITED. While performing the necessary work on private property, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

95.09 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.

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

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

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. There shall be a connection charge in the amount of five hundred dollars (\$500.00) paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a competent plumber with experience in laying drain and sewer pipe.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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 connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 - A.S.T.M. D-3034
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.
13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary

sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building 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 "Y" saddle 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 and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the

Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner, with the exception of street repairs. The City will pay to return the street to its previous condition before the sewer was installed and the street was dug up. 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. *(Ord. 624 – Aug. 10 Supp.)*

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97
USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges – Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100)

milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES – POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the

plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise 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 twenty-four (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 is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of an on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal

system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99
SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems

99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges in the amount of fifty percent (50%) of the bill for water and water service attributable to the customer for the property served, plus fourteen dollars and fifty cents (\$14.50) per month.

(Ord. 619 – Jul. 09

Supp.)

(Code of Iowa, Sec. 384.84)

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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

(Code of Iowa, Sec. 384.84)

99.07 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.

CHAPTER 100
SUMP PUMPS

100.01 Prohibited Water

100.02 Sump Pump and Rigid Pipe Required

100.03 Sump Pump and Rigid Pipe: Method of Installation

100.04 Penalties

100.05 Powers and Authority of Inspections

100.01 PROHIBITED WATER. It shall be unlawful for any owner, occupant or user of any premises to direct into or allow any storm water, surface water, ground water, well water or water from industrial or commercial air conditioning systems to drain into the sanitary sewer system of the City of Titonka. No rainspout, or other form of surface drainage, and no foundation drainage or sump pump shall be connected or discharged into any sanitary sewer.

100.02 SUMP PUMP AND RIGID PIPE REQUIRED.

1. New Subdivisions: All Construction. A sump pump and rigid pipe discharge connection to the outside shall be required for all construction in new subdivisions when it is determined necessary by the City Superintendent to protect sanitary sewer infiltration. The Superintendent shall conduct his analysis and make his determination of soil conditions on a subdivision basis. The sump pump and rigid pipe discharge requirement will apply to all units constructed within a specific subdivision.
2. Existing Subdivisions: New Construction. Any new construction in a subdivision platted prior to the effective date of the ordinance codified by this chapter shall be examined by the City Superintendent when the footing inspection is made. At that time the City Superintendent will determine, based upon excavated soils, whether the sump pump and rigid connection are required. Should the building owner choose the option of installing a sump pump and rigid connection where they are not required, they shall be installed in accordance with Subsections 100.03(1) and (2) below.
3. Existing Subdivisions: Existing Construction. Any existing construction in a subdivision platted prior to the effective date of the ordinance codified by this chapter in which a sump and pump have been or will be installed, shall be required to install a rigid pipe connection discharge in accordance with Subsections 100.03(2) below. It shall be unlawful to maintain any connection with the sanitary sewer carrying

roof water, ground water, surface water or any other natural precipitation after the effective date of this chapter.

4. Exceptions. No exceptions or waivers will be granted to permit sump pump discharge to the sanitary sewer.

100.03 SUMP PUMP AND RIGID PIPE: METHOD OF INSTALLATION.

1. The building shall have a drain tile placed around the inside or outside perimeter of the foundation connected to a sump pit. All baseboard seepage collection systems shall be discharged to the sump pit. The sump pit shall be located at least ten (10) feet away from the inside sanitary floor drain.
2. A discharge pipe shall be installed to the outside wall of the building with rigid pipe (plastic, copper, galvanized or black pipe) one (1) inch inside diameter minimum. The discharge pipe must have a check valve within one (1) foot of the floor grade and a union or other approved coupling for easy disconnection for repair or replacement. The discharge shall extend at least three (3) feet outside of the foundation wall.
3. Alternate methods of installation:
 - A. The discharge pipe may be connected directly to the municipal underground storm sewer system, provided the discharge is at a higher elevation than the normal flow level and that an approved backflow prevention device is installed.
 - B. The discharge may be connected directly to the municipal curb and gutter system provided the pipe is placed under the sidewalk or boulevard and through the back of the curb and that an approved backflow prevention device is installed.

100.04 PENALTIES.

1. Any person found to be violating any provision of this chapter 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. Any person who shall continue any violation beyond the time limited provided shall be fined in the amount not exceeding two hundred and no/100 dollars (\$200.00) for each violation. Each day in which any such violation occurred shall be deemed a separate offense.
3. In the event that the owner fails to correct the situation within the given time period, the City may correct it and collect such costs together

with reasonable attorney's fees and the collection fees by suing the owner in a court of competent jurisdiction, or in the alternative, by certifying said costs of correction as any other special assessment upon the land from which said correction of said violation was made.

100.05 POWERS AND AUTHORITY OF INSPECTIONS. The City Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this chapter. Inspections shall be conducted each time water service is turned on to the residence or if there is reason of concern in regards to the sump pump discharge.

(Ch. 100 – Ord. 628 – Jul. 11 Supp.)

[The next page is 301]

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 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Director” means the director of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

3. “Discard” means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

4. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

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.

(IAC, 567-100.2)

6. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

8. "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.

9. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

10. "Residential premises" means a single-family dwelling and any multiple-family dwelling.

11. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

12. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

13. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final

disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

(Code of Iowa, Sec. 455B.301)

15. "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 subsection one of Section 321.1 of the Code of Iowa.

(Code of Iowa, Sec. 455B.301)

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted outside the City limits and in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be (i) composted on the premises, (ii) burned on the premises during the periods of September 15 to November 15 and March 15 to May 15, or (iii) placed in yard waste bags purchased from the City for \$1.25 each and set out for collection. There is no regularly scheduled collection time for pickup of yard waste, and a request for collection of the yard waste should be made to the City. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened. Reusable containers may be used at curbside to hold tied garbage bags only. 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 premise where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers

shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Kossuth County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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CHAPTER 106
COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Curbside Recycling Program
106.03 Collection Vehicles
106.04 Loading
106.05 Frequency of Collection

106.06 Bulky Rubbish
106.07 Right of Entry
106.08 Contract Requirements
106.09 Collection Fees
106.10 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.06 within the City.

106.02 CURBSIDE RECYCLING PROGRAM. The City shall provide for the collection of recyclable material in accordance with the provisions of the contract between the City and the collector.

106.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.04 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.

106.05 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.

106.06 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.07 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.08 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste or recyclables for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.09 COLLECTION FEES. The collection and disposal of solid waste and recyclables as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. The fees for solid waste collection and disposal service and recycling, used or available, are:

A. All premises without dumpsters: \$14.00 per month for monthly recycling and solid waste collection consisting of not more than one approved bag per week. A \$1.50 single-use sticker must be attached to each additional bag over the 1 bag per week limit. *(Ord. 616 – Jun. 09 Supp.)*

B. Premises with dumpsters: \$7.50 per yard per dump. If the dumpster is owned by the City, an additional \$5.00 per dump for a 2-yard dumpster will be charged. In addition, \$2.00 per month for recycling collection will be charged to businesses with dumpsters unless the business falls under Paragraph C. *(Ord. 616 – Jun. 09 Supp.)*

C. Businesses generating large amounts of recyclables will be charged at a rate set by Council resolution.

D. Premises requesting special use dumpsters: \$30.00 per dump for a 2-yard dumpster will be charged.

E. Premises outside the City limits: \$27.00 per dump for a 2-yard dumpster will be charged. An additional \$5.00 per dump for a 2-yard dumpster will be charged for City-owned dumpsters. *(Ord. 616 - Jun. 09 Supp.)*

F. Premises requesting appliance pickup: \$25.00 will be charged per appliance.

(Ord. 607 - Jun. 07 Supp.)

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.10 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the 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)

[The next page is 331]

CHAPTER 110
GAS UTILITY

110.01 Purpose	110.11 Undercharge Not Due to Meter Error
110.02 Policy Direction	110.12 Accidental Wastage of Gas – Customer Side
110.03 Superintendent	110.13 Returned Checks
110.04 Service Rules and Regulations	110.14 Fees for Disconnections and Reconnections
110.05 Charges, Terms and Conditions	110.15 Service Charges
110.06 Residential or Commercial Deposits at a Place Which Has Previously Received Gas Service	110.16 Rates and Service
110.07 Replacement or Additional Deposits	110.17 Billings for Gas Service
110.08 Interest on Deposits	110.18 Service Discontinued
110.09 Amount of Penalty	110.19 Property Owner Responsible
110.10 Back Billing for Meter Error	110.20 Billing of Tenants
	110.21 Agreement Required

110.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned gas system.

110.02 POLICY DIRECTION. The Mayor and Council shall establish appropriate rules and regulations governing the operation and maintenance of the gas system.

110.03 SUPERINTENDENT. The superintendent shall be responsible for execution of policies governing the system as established by the Council.

110.04 SERVICE RULES AND REGULATIONS. The rules and regulations for gas service are contained in the *Service Rules of Titonka Municipal Gas Utility*. An official copy of the rules and regulations as adopted is now on file in the office of the Clerk. The rules and regulations contained therein shall apply to all users of the municipal gas system.

110.05 CHARGES, TERMS AND CONDITIONS. Charges, terms and conditions established by this chapter are to be read in conjunction with the appropriate section of the gas service rules. Charges, terms and conditions as established by this chapter are subject to other such conditions and stipulations as may be required by the gas service rules. All charges, terms, conditions and stipulations of both this chapter and the gas service rules are subject to change from time to time, pursuant to a subsequent ordinance.

110.06 RESIDENTIAL OR COMMERCIAL DEPOSITS AT A PLACE WHICH HAS PREVIOUSLY RECEIVED GAS SERVICE. In conjunction with Section 3.2(1)(a) of the gas service rules: The deposit for service shall be equal to the highest billing of service for one month for the place in the previous twelve-month period.

110.07 REPLACEMENT OR ADDITIONAL DEPOSITS. In conjunction with Section 3.2(1)(e) of the gas service rules: Except for one automatic forgiveness of late payment, no late payments are allowed in any twelve-month period before a replacement or additional deposit for service is required.

110.08 INTEREST ON DEPOSITS. In conjunction with Section 3.2(2) of the gas service rules: No interest will be paid on customer deposits.

110.09 AMOUNT OF PENALTY. In conjunction with Section 3.3(4) of the gas service rules: The late payment penalty shall be one and one-half percent (1½%) per month on the unpaid balance.

110.10 BACK BILLING FOR METER ERROR. A customer shall be back billed if the recalculated bill due to meter error exceeds \$3.00. A former customer shall be back billed if a recalculated bill due to meter error exceeds \$5.00.

110.11 UNDERCHARGE NOT DUE TO METER ERROR. In conjunction with Section 3.3(7) of the gas service rules: A customer shall be back billed if the recalculated bill due to an error other than meter error exceeds \$3.00. A former customer shall be back billed if the recalculated bill due to an error other than meter error exceeds \$3.00. Back billing in both instances shall be for a period not to exceed 6 months.

110.12 ACCIDENTAL WASTAGE OF GAS – CUSTOMER SIDE. In conjunction with Section 3.3(7)(c) of the gas service rules: If gas wastage occurs on the customer side of the meter, without the knowledge of and without negligence by the customer, and the customer provides reasonable evidence of such lack of negligence and knowledge, the recomputation period shall not extend back farther than one month for crediting purposes on the customer's bill.

110.13 RETURNED CHECKS. In conjunction with Section 3.3(7)(d) of the gas service rules: The charge for any check or check-like financial instrument dishonored by a financial institution for any reason shall be \$20.00 for each act of dishonorment. If two or more of the customer's financial instruments are dishonored within a 12-month period, future payments by the customer shall be by cash, cashier's check or postal money order for a period not less than twelve (12) months.

110.14 FEES FOR DISCONNECTIONS AND RECONNECTIONS.

1. Temporary Disconnection and Reconnections (Voluntary). In conjunction with Section 3.4(1) of the gas service rules:

The service charge for temporary disconnection is

Regular	\$	0.00
Overtime	\$	25.00

The service charge for temporary reconnection is

Regular	\$	25.00
Overtime	\$	37.50

An idle charge of \$0.00 per month will be billed for service connections temporarily disconnected.

2. Permanent Disconnections (Voluntary). In conjunction with Section 3.4(1)(b) of the gas service rules:

The service charge for permanent disconnection is

Regular	\$	0.00
Overtime	\$	25.00

The utility requires three (3) days' notice by the customer prior to requested time of permanent disconnection.

3. Disconnection And Reconnection Fee (Involuntary) – Other Than Nonpayment. In conjunction with Section 3.4(2)(c) of the gas service rules:

The service charge for involuntary disconnection is

Regular	\$	0.00
Overtime	\$	0.00

The service charge for reconnection after involuntary disconnection is

Regular	\$	0.00
Overtime	\$	0.00

4. Disconnection And Reconnection Fee (Involuntary) – Nonpayment. In conjunction with Section 3.4(2)(c) of the gas service rules:

The service charge for involuntary disconnection due to nonpayment is

Regular	\$	0.00
Overtime	\$	0.00

The service charge for reconnection after involuntary disconnection due to nonpayment is

Regular.....	\$	25.00
Overtime	\$	37.50

(Subsections 1, 2, & 4 - Ord. 586 – Mar. 02 Supp.)

110.15 SERVICE CHARGES. Each person receiving LP gas service from the City shall pay for such gas service provided by the City based upon use of gas as determined by meters provided by the City. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

110.16 RATES AND SERVICE. Gas service shall be furnished in accordance with the rates set out below:

1. Firm LP Gas Service. Standard uninterruptible gas shall be available at a rate of \$5.00 per meter per month plus \$5.6049 per hundred cubic feet plus or minus an amount in accordance with the purchase gas adjustment.
2. Large Volume Users. Firm LP gas service customers will be reclassified to a large volume user for twelve calendar months after they have used 1,000 gallons of gas on one meter set in one given month. Large volume users will be furnished gas at a rate of \$5.00 per meter per month plus \$5.5220 per hundred cubic feet per meter plus or minus an amount in accordance with a purchase gas adjustment.

(Subsections 1 & 2 - Ord. 634 – Aug. 13 Supp.)

3. Contract Users. Contract customers will be supplied gas at a rate pursuant to a written contract with the utility.

110.17 BILLINGS FOR GAS SERVICE. Billing and payment for gas service shall be in accordance with the following:

1. Bills Issued. The Clerk shall prepare, date and issue bills for gas service. Bills shall be deemed issued as of the date indicated on the bills.
2. Bills Payable. Bills for gas service shall be due and payable at the office of the Clerk within twenty (20) days of the date of issue.

110.18 SERVICE DISCONNECTED. Gas service to delinquent customers shall be discontinued in accordance with the gas service rules.

110.19 PROPERTY OWNER RESPONSIBLE. The owner of a property which receives gas service shall be responsible for the payment of all charges and fees associated with the provision of gas service for such property.

110.20 BILLING OF TENANTS. At its sole option and as a convenience to property owners that lease or rent property to others, the City may, by written agreement, bill lessees or tenants for charges for gas delivered to a property during such rental or lease period.

110.21 AGREEMENT REQUIRED. Billing of lessees or tenants as authorized by this chapter shall not be initiated until executed agreements with the property owner and tenant have been filed with the City.

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CHAPTER 111
ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Nonexclusive Grant
111.03 Eminent Domain
111.04 Placement of Facilities
111.05 Regulation by City
111.06 Indemnification

111.07 Restoration of Public Works
111.08 Availability of Service
111.09 Moving of Buildings
111.10 Cancellation of Franchise Agreement by City
111.11 Quality of Facilities

111.01 FRANCHISE GRANTED. There is hereby granted unto Interstate Power Company, a Delaware Corporation, its successors and assigns, the right, permission, privilege and franchise, for a period of ten (10) years from and after the taking effect of the ordinance codified by this chapter, to erect, install, construct, reconstruct, repair, own, operate, maintain, manage and control an electric plant and an electric transmission and distribution system consisting of poles, wires, conduits, pipes, conductors and other fixtures, in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City, necessary, convenient or proper for the production, transmission, distribution and delivery of electric energy to the City and its inhabitants for light, heat and power purposes.

111.02 NONEXCLUSIVE GRANT. The franchise shall not be exclusive and shall not restrict in any manner the right of the City in the exercise of any governmental power which it may have or hereafter be authorized or permitted by the laws of the State.

111.03 EMINENT DOMAIN. The Company is granted (i) the right-of-way in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City and (ii) the right to exercise powers of eminent domain, as provided in Section 364.2 of the Code of Iowa, for the purpose of erecting, installing, constructing, reconstructing, repairing, owning, operating, maintaining, managing and controlling said electric plant and said electric transmission and distribution system.

111.04 PLACEMENT OF FACILITIES. The facilities, fixtures and equipment for the distribution system and sale of electric energy within the City shall be placed and maintained so as not to unnecessarily or unreasonably interfere with the travel on the streets, highways, avenues, alleys, bridges and public places in the City, nor shall such facilities, fixtures and equipment unnecessarily or unreasonably interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe or other property of the City. In the event that facilities, fixtures or equipment of the

Company located within a public right-of-way must be relocated because of paving, road construction or road reconstruction, sewer construction or sewer reconstruction, or the construction or reconstruction of public drain systems or similar public works or the construction or reconstruction of the facilities of any City-owned utility, such relocation, at the written request of the City, shall be completed by the Company at the Company's cost. The City shall, upon request of the Company, review any plans for the construction of facilities, fixtures and equipment within the public right-of-way and advise the Company of any conflicts such construction may have with planned or anticipated public improvements, but failure of the City to advise the Company will not relieve the Company of its obligations under this section.

111.05 REGULATION BY CITY. The City reserves to itself the right to make reasonable regulations of the Company's use of streets and other public property.

111.06 INDEMNIFICATION. The Company shall indemnify, save and hold harmless and defend the City, its officers, boards and employees, at all times during the term of the franchise from and against any and all claims or causes of action for injury or damage to persons or property which arise out of the erection, installation, construction, reconstruction, repair, operation, maintenance, management or control of the Company's properties, including said electric plant and electric transmission and distribution system, or the negligence of its contractors or its employees. If any such suit or action at law is commenced against the City, the City agrees to give written notice to the Company of such action or proceeding and the Company shall then appear and make a proper defense thereto; and if any judgment or decree shall in any case be rendered against the City therein, the Company hereby agrees to assume, pay and satisfy such judgment or decree, with the costs thereof.

111.07 RESTORATION OF PUBLIC WORKS. During the erection, installation, construction, repair, operation and maintenance of said plant or transmission and distribution system, the Company shall proceed with such work as to cause the least possible inconvenience to the public. The Company shall properly protect all excavations and obstructions as circumstances may warrant. The Company shall leave all of the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds upon which it may enter for the purpose herein authorized in as good condition as they were at the date of said entry.

111.08 AVAILABILITY OF SERVICE. The Company shall maintain the availability of service to any customer within the corporate limits of the City in accordance with the Service Standards of the Company as filed with the Iowa State Utilities Board of the Department of Commerce.

111.09 MOVING OF BUILDINGS. Whenever any person has obtained permission from the City to move any building or structure which may interfere with the poles, wires, or other fixtures of the Company, the Company shall, upon five (5) days' notice thereof, and at the expense of the person desiring to move such structure, remove such poles, wires or other fixtures as may be necessary to allow the passage of such structure, for a reasonable length of time, upon receipt from such person of satisfactory assurance covering the cost of such removal and replacement and any liability or damage resulting therefrom.

111.10 CANCELLATION OF FRANCHISE AGREEMENT BY CITY. The franchise is subject to cancellation at the end of each five-year period from and after the effective date of the franchise by resolution of the Council to that effect adopted by a three-fourths (3/4) vote of the Council, provided that the City shall give the Company six (6) months' written notice prior to such cancellation and that such notice shall be accompanied by a certified copy of the resolution of the Council which orders the cancellation of said franchise. Upon the service of such written notice within the time prescribed herein, all of the rights herein granted to said Company shall be terminated effective as of the date of said cancellation for which said notice is given, without any further action of the Council.

111.11 QUALITY OF FACILITIES. The Company's service facilities authorized by this chapter shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof. The Company shall also provide customer service in a prompt and reasonable manner.

EDITOR'S NOTE

Ordinance No. 575 adopting an electric franchise for the City was given final approval on October 2, 1996.

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CHAPTER 112
TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Police Power

112.01 FRANCHISE GRANTED. There is granted to the Titonka Telephone Company, its successors and assigns (herein referred to as "Grantee") the right, permission, privilege and franchise, for a period of twenty-five (25) years from and after the effective date of the ordinance codified by this chapter, subject only to the laws of the State and to the conditions and limitations hereinafter contained, to erect, install, construct, reconstruct, repair, own, operate, maintain, manage and control a telephone and telegraph system within the limits of the City. The Grantee is hereby granted the right-of-way in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City, all for the purpose of erecting, installing, constructing, reconstructing, repairing, owning, operating, maintaining, managing and controlling said telephone and telegraph system. Said franchise shall not be exclusive.

112.02 POLICE POWER. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

EDITOR'S NOTE

Ordinance No. 558, adopting a telephone franchise for the City was passed and adopted on September 10, 1987.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 FRANCHISE GRANTED. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the nonexclusive right is hereby granted to Titonka Telephone Company, an Iowa Corporation, with its principal place of business at Titonka, Iowa, its successors or assigns (hereinafter collectively referred to as Company) who will, if this franchise is approved by the voters, erect, maintain and operate television transmission and distribution facilities, including poles where approved, wires and appurtenances, and additions thereto, and facilities for the transmission of frequency modulated sound signals, in, under, over, along, across and upon the streets, avenues, sidewalks, alleys, bridges, easements, for utility installations and other public places in the City and subsequent additions thereto, for the purpose of transmission and distribution of television impulses and television energy and frequency modulated sound signals in accordance with the laws and regulations of the United States of America and the State of Iowa, and ordinances and regulations of the City for a period of twenty-five (25) years.

EDITOR'S NOTE

Ordinance No. 537 adopting a CATV franchise for the City was passed and adopted on October 2, 1980. Ordinance No. 600, adopted on May 4, 2006, renewed the cable television franchise for 10 years.

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CHAPTER 114

CABLE TELEVISION REGULATIONS

114.01 Definitions	114.12 Channels Provided
114.02 Joint Pole Use	114.13 Distribution System
114.03 Pole Use by City	114.14 Receiving Equipment
114.04 Location of Poles, Wires and Appurtenances	114.15 Distortion
114.05 Compliance with Standards	114.16 Color Signal
114.06 Hardware and Installation	114.17 Removal of System
114.07 Moving of Buildings	114.18 Liability and Indemnification
114.08 Use of Public Ways	114.19 Complaints
114.09 Maintenance of Poles	114.20 Penalty
114.10 Line Extensions	114.21 Investigation and Approval
114.11 Company Rules and Regulations	

114.01 DEFINITIONS. The following words and phrases, when used in this chapter and for the purpose of this chapter, have the meanings ascribed to them in this section:

1. “Cable television system” means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “City” means the City of Titonka, Iowa. When the context so requires, the term “City” means and includes the City, its officers, agents, employees, servants and independent contractors.
4. “Company” means Titonka Telephone Company, a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Company” means and includes the Company, its officers, agents, employees, servants, and independent contractors.
5. “FCC” means the Federal Communications Commission.
6. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and by Cable Television Franchise Ordinance No. 600, and includes all of the terms and conditions of both ordinances.
7. “Grantee” means Titonka Telephone Company, a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” means

and includes the Grantee, its officers, agents, employees, servants, and independent contractors.

8. “Person” means any individual, or any corporation, business, firm or other entity, and shall be construed as singular or plural, or masculine, feminine or neuter, as the context may require.

9. “Private property” means all property, real, personal, or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

10. “Property of the Grantee” means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

11. “Public property” means all property, real, personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

114.02 JOINT POLE USE. The poles used for the Company’s distribution system shall be those erected and maintained by the utility companies operating in the City, provided mutually satisfactory rental agreements can be entered into with said companies. The Company shall be authorized and entitled to erect its own poles, if any, only after the authorization and approval of the Council.

114.03 POLE USE BY CITY. The Company shall grant to the City joint use of any and all poles owned by it, if any, for any proper municipal purposes acceptable to the Company, and under such arrangements as may be mutually agreed upon, insofar as may be done without interfering with the free use and enjoyment of the Company’s own wires and fixtures; and the City shall hold the Company harmless from any and all actions, causes of action, or damage caused by the placing of the City’s wires or appurtenances upon the poles of the Company.

114.04 LOCATION OF POLES, WIRES AND APPURTENANCES. The Company’s transmission and distribution system, wires and appurtenances, shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with any improvements the City may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or other public property. The City reserves the right to require the Company to place its conductors underground and to designate the districts in which such work shall be performed, and also to order the removal or relocation of poles, wires and other appurtenances erected by the Company whenever in the judgment of the Council such action is in the public interest, and the Company shall forthwith comply with any and all instructions and directives in such matters at its own expense.

114.05 COMPLIANCE WITH STANDARDS. Construction and maintenance of the transmission distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of the City affecting installations which may be presently in effect or may be enacted by the Council.

114.06 HARDWARE AND INSTALLATION. Installation and house-drop hardware shall be uniform throughout the City, except that the Company shall be free to change its hardware and installation procedure as the art progresses.

114.07 MOVING OF BUILDINGS. The Company shall temporarily raise or lower its wires to permit the moving of buildings by a holder of a City House Mover's License. The Company shall be given not less than 48 hours' notice to do the work. Expense of such temporary work will be paid to the Company by the permit holder.

114.08 USE OF PUBLIC WAYS. In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public. Any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights.

114.09 MAINTENANCE OF POLES. The Company shall maintain its attachment on poles that the City now uses, or has been authorized by other franchises now in force or hereafter enacted to use, in such manner that it will not interfere with the use of such poles by the City.

114.10 LINE EXTENSIONS. In consideration of the rights granted in its franchise, the Company agrees and binds itself to extend its lines and to serve any and all applicants for television service whose dwellings or places of business are located in the City, and who in good faith have entered into or signified their willingness to enter into a contract for such television.

114.11 COMPANY RULES AND REGULATIONS. The Company shall have the right to prescribe reasonable service rules and regulations for the conduct of its business not inconsistent with the provisions of its franchise and this chapter. Such rules shall be filed with the Clerk and shall be effective as of the date of such filing, and be subject to approval by the Council within six

months after such filing. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary it shall give reasonable notice thereof to its customers.

114.12 CHANNELS PROVIDED. The Company shall provide sufficient channels to provide reception from all available major networks. The Federal Communications Commission Rules and Regulations for Cable Television Systems and any amendments and additions thereto are hereby made a part of this chapter.

114.13 DISTRIBUTION SYSTEM. The Company's distribution system shall conform to the rules and regulations of the Federal Communications Commission, particularly with respect to freedom from spurious radiation, shall be furnished by the Company at its expense and shall be made available for use by City inspection personnel during regular business hours during the period of its franchise.

114.14 RECEIVING EQUIPMENT. The antenna and receiving equipment shall be installed and maintained so as to give a reasonably noise-free picture on each channel.

114.15 DISTORTION. The installation and maintenance of equipment shall be such that no objectionable intermodulation distortion will occur.

114.16 COLOR SIGNAL. The installation and maintenance of equipment shall be such that standard NTSC color signals shall be transmitted to any subscriber's receiver without objectionable picture degradation.

114.17 REMOVAL OF SYSTEM. Upon termination or forfeiture of its franchise in accordance with any of its terms or with this chapter, the Company shall, within a reasonable time, remove its cables, wires and appliances from the City streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements and other public places within the City, and shall restore such streets and other public places to their original condition.

114.18 LIABILITY AND INDEMNIFICATION. The Company shall indemnify and hold the City harmless at all times during the term of this grant from and against all claims for injury or damages to persons or property, both real and personal, resulting from the negligence on the part of the Company, in construction, erection, operation or maintenance of any structure, equipment, appliance or product authorized or used pursuant to authority of this chapter; and the Company shall carry insurance against liability due to damage to

property in an amount no less than one hundred thousand dollars (\$100,000.00) as to any one person; and three hundred thousand dollars (\$300,000.00) as to any one accident; and against liability due to injury or death of persons in an amount not less than five hundred thousand dollars (\$500,000.00) as to any one person; and five hundred thousand dollars (\$500,000.00) as to any one accident. The Company, upon receipt of due notice in writing from the City, shall defend at its own expense any action or proceedings against the City in which it is claimed that the damage or injury resulted from the Company's negligence in the operation of its television system.

114.19 COMPLAINTS. The Company shall maintain a designated telephone number for the purpose of receiving complaints from subscribers. Every reasonable effort shall be made to resolve any and all complaints to the satisfaction of the subscriber. If not satisfied, the subscriber may request the Council to appoint a committee to investigate the complaint. If the committee recommends action by the Council, the Council may call for a public hearing on the matter and thereafter take whatever action Council may deem necessary to resolve the matter.

114.20 PENALTY. Any violation by the Company of the provisions of its franchise, or any material portion thereof, or the failure to promptly perform the provisions thereof, shall be cause for forfeiture of its franchise, after written notice to the Company, and continuation of such violation, failure or default.

114.21 INVESTIGATION AND APPROVAL. The City acknowledges that it has investigated the legal, character, financial, technical and other qualifications and the adequacy and feasibility of the Grantee's proposed system, and they have been found to be acceptable and have been approved by the City as part of a full public proceedings affording due process.

(Ch. 114 – Ord. 601 – Jun. 06 Supp.)

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CHAPTER 120
BEER, LIQUOR AND WINE CONTROL

120.01 General Prohibition
120.02 Persons Under Legal Age
120.03 Public Consumption or Intoxication

120.04 Open Containers in Motor Vehicles
120.05 License or Permit Required

120.01 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 terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

(Code of Iowa, Sec. 123.2)

120.02 PERSONS UNDER LEGAL AGE. As used in this section, “legal age” means twenty-one (21) years of age or more.

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

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

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

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

120.03 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 which provides teaching for any grade from kindergarten through grade twelve.

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

3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

120.04 OPEN CONTAINERS IN MOTOR VEHICLES. *(See Section 60.12 of this Code of Ordinances.)*

120.05 LICENSE OR PERMIT REQUIRED. It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport 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. 123.2 and 123.171)

CHAPTER 121
CIGARETTE 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. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
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, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.
6. “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.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; 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.

121.02 PERMIT REQUIRED. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

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

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

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

121.04 FEES. The fee for a retail cigarette permit shall be as follows:

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

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.

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 of the Code of Iowa.

(Code of Iowa, 453A.13)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes

prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

1. For a first violation, the violator shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the violator's permit shall be suspended for a period of thirty (30) days.
3. For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.
4. For a fourth violation within a period of five (5) years, the violator's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, 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 cigarettes or tobacco products, in a quantity of less than a carton, 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 revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

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

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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 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of

storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$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 one thousand dollars (\$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, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

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 forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

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.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that 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 timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

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

CHAPTER 136
SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Awnings
136.04 Responsibility for Maintenance	136.13 Encroaching Steps
136.05 City May Order Repairs	136.14 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.15 Fires or Fuel on Sidewalks
136.07 Permit Required	136.16 Defacing
136.08 Sidewalk Standards	136.17 Debris on Sidewalks
136.09 Barricades and Warning Lights	136.18 Merchandise Display
	136.19 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-

base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business district sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.

11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(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 (8) 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 (6) feet of any sidewalk.

136.15 FIRES OR FUELS 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 (3) 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 thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

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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
145.08 Costs
145.09 Petition by City for Title to Abandoned Property

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF TITONKA, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

(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.

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

145.09 PETITION BY CITY FOR TITLE TO ABANDONED PROPERTY. The provisions of Iowa Code Section 657A.10A as may be amended from time to time are hereby adopted by reference. At any time the enforcement officer and City Attorney may elect to use this section in lieu of Sections 145.02 through 145.08 to allow the City to acquire title to abandoned property. *(Ord. 632 – Jul. 12 Supp.)*

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 of 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.

CHAPTER 146

FIRE ZONE

146.01 Fire Zone Established
146.02 Plans Submitted
146.03 Buildings Prohibited
146.04 Construction Standards

146.05 Reconstruction Prohibited
146.06 Special Permit
146.07 Removal of Buildings
146.08 Storage of Materials Restricted

146.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

Commencing at a point in the middle of Main Street where the south line of Block Fourteen (14) of Original Plat, extended, intersects the same, as a point of beginning; running thence west to the centerline of Putnam Avenue; thence north to the north line of Lot Five (5), in Block Twenty-seven (27), of the Original Plat, extended; thence east along the north line of Lots Five (5) and Four (4), of Block Twenty-seven (27), of the Original Plat, and on eastward and along the north line of Lots Four (4) and Five (5) of Block Twelve (12) of the Original Plat, to the centerline of Ripley Avenue; thence south along the centerline of Ripley Avenue, to its intersection with the centerline of First Street; thence east along the centerline of First Street to its intersection with the centerline of the north and south Alley running through Block Eleven (11), of Original Plat; thence north along the centerline of the north and south Alley, through said Block Eleven (11), and along the centerline of the north and south Alley through Block Six (6) of the Original Plat, to the intersection thereof with the centerline of Third Street; thence east along the centerline of Third Street, to the intersection thereof with the centerline of the north and south Alley through Block Seven (7) of the Original Plat, extended, thence south along the centerline of said Alley through said Block Seven (7) and south along the centerline of the Alley through Blocks Ten (10) and Fifteen (15), of the Original Plat, to the south line of said Block Fifteen (15), and thence west along the south line of said Block Fifteen (15) to point of beginning.

146.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

146.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

146.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

146.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

146.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

146.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

146.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

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CHAPTER 147

PUBLIC WATER SUPPLY WELL FIELD PROTECTION

147.01 Purpose	147.07 Exceptions
147.02 Definitions	147.08 Determination of Locations Within Zones
147.03 Substances Regulated	147.09 Enforcement and Penalties
147.04 Maps of Zones of Influence	147.10 Inspections
147.05 Restrictions Within the Primary Protection Zone	147.11 Notice of Violation and Hearing
147.06 Restrictions Within the Secondary Protection Zone	147.12 Injunctive Relief

147.01 PURPOSE. The purpose of this chapter is to institute land use regulations and restrictions to protect the City’s water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents of the City.

147.02 DEFINITIONS.

1. “Aquifer” means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. “Alluvium” means sand, clay, etc., gradually deposited by moving water.
3. “Contamination” means the presence of any harmful or deleterious substances in the water supply.
4. “Groundwater” means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
5. “Hazardous substances” means those materials specified in Section 147.03 of this chapter.
6. “Permitted pumping capacity” means the amount of water authorized to be pumped from a well during a one-year period.
7. “Person” means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
8. “Petroleum product” means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids and other similar products.
9. “Pollution” means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH

turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

10. “Potable water” means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

11. “Primary containment” means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

12. “Public utility” means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.

13. “Secondary containment” means the level of product-tight containment external to and separate from the primary containment. Secondary containment consists of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

14. “Shallow well” means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.

15. “Toxic substance” means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.

16. “Water pollution” means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.

17. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.

18. “Well field” means a tract of land that contains a number of wells for supplying water.

19. "Zones of influence" means zones delineated by fixed radii around well heads, within which toxic substances will be regulated to protect the quality of the underground resource.

147.03 SUBSTANCES REGULATED. The materials regulated by this chapter are the following:

1. Petroleum products as defined in Section 147.02;
2. Substances listed in 40 CFR Part 261, subparts C and D, the Federal Hazardous Waste List;
3. Substances listed by the Iowa Labor Commissioner pursuant to Section 89B.12 of the Code of Iowa (Hazardous Chemicals Risks - Right to Know).

147.04 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zones of influence maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file at City Hall. The location of all wells in the City supplying potable water to the City Water System are shown on the official Well Head Protection Map with Primary and Secondary Protection Zones indicated. Said maps shall be provided to the Clerk, County Health Department and any other agency requesting said maps.
2. Map Maintenance. The zones of influence maps may be updated on an annual basis. The reasons for such an update may include, but are not limited to, the following:
 - A. Changes in the technical knowledge concerning the aquifer;
 - B. Changes in permitted pumping capacity of City well fields;
 - C. Additions of wells to existing well fields;
 - D. Designation of new well fields.
3. Zones of Influence. The zones of influence indicated on the zone of influence maps are as follows:
 - A. Primary Protection Zone — an area extending 200 feet radially from any well supplying potable water to the City Water Systems.
 - B. Secondary Protection Zone — an area extending between 200 and 2,640 feet radially from any well supplying potable water to the City Water System.

147.05 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited uses unless permits are granted by the Council under this section.
 - A. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa Department of Natural Resources *Separation Distances from Wells* for sources of contamination is complied with.
 - B. Playgrounds.
 - C. Wildlife areas.
 - D. Nonmotorized trails, such as biking, skiing, nature and fitness trails.
2. Prohibited Uses. The following uses are prohibited uses within the Primary Protection Zone (Zone A). Uses not listed are not considered permitted uses, unless specifically listed under subsection 1 of this section.
 - A. Sewered or unsewered residential uses;
 - B. On-site private sewage systems;
 - C. Underground storage tanks;
 - D. Agricultural activities;
 - E. Pesticide and/or fertilizer storage and use;
 - F. Septage and/or sludge spreading;
 - G. Animal waste land spreading;
 - H. Animal waste facilities;
 - I. Animal confinement facilities;
 - J. Gas stations;
 - K. Vehicle repair establishments, including auto body repair;
 - L. Printing and duplicating businesses;
 - M. Any manufacturing or industrial businesses;
 - N. Bus or truck terminals;
 - O. Landfills or waste disposal facilities;
 - P. Wastewater treatment facilities;
 - Q. Spray wastewater facilities;

- R. Junk yards or auto salvage yards;
 - S. Bulk fertilizer and/or pesticide facilities;
 - T. Asphalt products manufacturing;
 - U. Dry cleaning businesses;
 - V. Salt storage;
 - W. Electroplating facilities;
 - X. Exterminating businesses;
 - Y. Paint and coating manufacturing;
 - Z. Hazardous and/or toxic materials storage;
 - AA. Toxic and hazardous waste facilities;
 - BB. Radioactive waste facilities.
3. Hazardous Substances. No person shall discharge or cause or permit the discharge of a hazardous substance (including herbicide and pesticide application) to the soils, groundwater or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Well Head Field Protection Officer.
4. Uses Requiring Permits. The following uses are not allowed within the Primary Protection Zone unless a permit is issued for such use by the Council.
- A. Basement storage tanks;
 - B. Repair shops (excluding those prohibited under subsection 2 of this section).

147.06 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone.
- A. All uses listed as permitted in the Primary Protection Zone.
 - B. Sewered residential, commercial and/or industrial uses except those listed as prohibited uses in subsection 2 of section 147.05.
 - C. Above-ground storage tanks of 660 gallons or less.
 - D. Basement storage tanks.

2. Prohibited Uses. The following uses are prohibited uses within the Secondary Protection Zone (Zone B). Uses not listed are not considered permitted uses unless specifically listed under subsection 1 or granted a permit by the Council.

- A. Landfills;
- B. Wastewater treatment facilities;
- C. Spray wastewater facilities;
- D. Junk yard or auto salvage yards;
- E. Hazardous and toxic materials storage and use;
- F. Hazardous and toxic waste facilities;
- G. Radioactive waste facilities.

3. Uses Requiring Permits. The following uses are prohibited within the Secondary Protection Zone (Zone B) unless a permit is granted for such use by the Council.

- A. Underground storage tanks of any size;
- B. Private sewage systems;
- C. Agricultural activities;
- D. Pesticide and/or fertilizer storage and use;
- E. Septage and/or sludge spreading;
- F. Animal waste land spreading;
- G. Animal waste facilities;
- H. Animal confinement facilities;
- I. Gas stations;
- J. Vehicle repair establishments, including auto body repair;
- K. Printing and duplication businesses;
- L. Bus or truck terminals;
- M. Repair shops;
- N. Bulk fertilizer and pesticide facilities;
- O. Asphalt products manufacturing;
- P. Dry cleaning facilities;
- Q. Salt storage;
- R. Electroplating facilities;

- S. Exterminating shops;
- T. Paint and coating manufacturing;
- U. Tire and battery services;
- V. Garage and vehicular towing;
- W. Public and municipal maintenance garage.

147.07 EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this chapter:
 - A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
 - B. Silviculture uses and mosquito control spraying providing that said uses comply with the Iowa Commercial and Public Pesticide Applicators and Dealers Licensing through the Iowa Department of Agriculture. The use and storage of herbicides and pesticides for silviculture uses is prohibited within the Primary Protection Zone but is allowed within the Secondary Protection Zone.
 - C. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
 - D. Fire, police, emergency medical services, emergency management center facilities or public utility transmission facilities.
 - E. Retail sales establishments for resale in their original unopened containers.
 - F. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
 - G. Consumer products located in the home which are used for personal, family or household purposes.
 - H. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
 - I. The use of water treatment chemicals connected with the operation of the well.

2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance.
3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.
4. All written requests for permits allowed under Sections 147.05 and 147.06 of this chapter will be made to the Council and must include an environmental assessment report. Any permits granted will be made conditional and may include environmental and safety monitoring and/or a bond posted for future monitoring and cleanup costs. The exemption will be made void if environmental and/or safety monitoring indicates the facility is emitting any releases of harmful contaminants to the surrounding environment. The facility will be financially responsible for all environmental cleanup costs.

147.08 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable Zone of Influence Map shall be governed by the restrictions applicable to that zone.
2. For properties having parts lying within more than one zone as reflected on the applicable Zones of Influence Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

147.09 ENFORCEMENT AND PENALTIES.

1. The Public Works Director is designated as the Well Field Protection Officer unless another person is specifically designated by the Council to supervise the implementation and enforcement of this chapter.
2. No building permit shall be issued which is a violation of the Iowa Department of Natural Resources *Separation Distance from Wells*, a violation of this chapter or a source of contamination for a City well.
3. No new underground tanks will be allowed for auxiliary fuel storage in the Primary or Secondary Zones.

4. Any person who fails to comply with the provisions of this chapter shall be subject to provisions and penalties provided in Chapter 3 of this Code of Ordinances, entitled MUNICIPAL INFRACTIONS.

147.10 INSPECTIONS.

1. The Well Field Protection Officer or Inspector shall have the power and authority to enter and inspect all buildings, structures and land within well field zones of influence for the purpose of making an inspection. Failure of a person having common authority over a property to permit an inspection shall be sufficient grounds and probably cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer to inspect such premises.

2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open unsecured portion of the premises in order to conduct an inspection thereof.

3. The Well Field Protection Officer or Inspector may inspect each well field annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within each well field zone. An emergency plan shall be prepared and filed with the County Emergency Management Agency indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spills materials.

4. It is the duty of all law enforcement officers to assist in making inspection when such assistance is requested by the officer or inspector.

147.11 NOTICE OF VIOLATION AND HEARING. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations;
4. State that said violations shall be corrected within a specified period of time as issued in writing by the inspector.

147.12 INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses and/or produces toxic substances within the well field zones of influence, as indicated on the Zones of Influence

CHAPTER 147

PUBLIC WATER SUPPLY WELL FIELD PROTECTION

Maps, continues to operate in violation of the provisions of this chapter, then the City may file an action for injunctive relief in the court of jurisdiction.

(Ch. 147 – Ord. 595 – Sep. 05 Supp.)

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees

151.04 Cutting Trees to Be Supervised
151.05 Disease Control
151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

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

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 CUTTING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to 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 which 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 infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. Removal from 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, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. 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. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

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

(Ch. 151 – Ord. 604 - Aug. 06 Supp.)

CHAPTER 152

HEIGHT OF GRASS RESTRICTED

152.01 Purpose
152.02 Height of Grass
152.03 Violation
152.04 Notice

152.05 Failure to Cut Grass
152.06 Penalty
152.07 Additional Violation
152.08 Exceptions

152.01 PURPOSE. The purpose of this chapter is to establish a maximum height that grass on lands within the City may be grown before it must be cut.

152.02 HEIGHT OF GRASS. Grass growing on lands within the City shall be cut on a periodic basis so that the height of such grass is never greater than six (6) inches in height.

152.03 VIOLATION. Upon a determination, by visual observation and measurement, that a violation of this has occurred the City will send written notice by certified mail to the landowner informing said owner of the problem and the action that is to be taken.

152.04 NOTICE. The notice will set forth that the property owner has seven (7) days from the date of the notice to have the grass cut so that the height conforms with this chapter. The notice will set forth the address of the property in question and will instruct the landowner that this notice constitutes notice for the balance of the summer and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given.

152.05 FAILURE TO CUT GRASS. If any such owner, who has been sent notice, fails to cut the grass on said owner's property as set forth in the notice so that it conforms with this chapter within the time period set forth in the notice, the designated municipal officer will instruct the Department of Public Works to mow the grass so that the property conforms with this chapter.

152.06 PENALTY. A charge of \$75.00 per hour for such mowing, plus a surcharge of \$100.00, will be charged to the property owner. Any property owners who fail to mow their properties, thus allowing the same to be mowed by the City, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

152.07 ADDITIONAL VIOLATION. Any landowner who violates this chapter will be given one notice per summer and the City will be authorized to respond to additional violations without additional written notice being given.

152.08 EXCEPTIONS. This chapter pertains to all residential, commercial and industrial land within the City limits, but excludes agricultural land within the City.

(Ch. 152 - Ord. 623 - Jun. 10 Supp.)

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CHAPTER 160
FLOOD PLAIN REGULATIONS

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160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. **Restrict Use.** Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. **Vulnerable Uses Protected.** Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance

Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and
- B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and
- D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. “Recreational vehicle” means a vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.
24. “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.
25. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
26. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:
- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."
 - B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.
28. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.
29. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City. For the purpose of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for the City, dated September 1, 1987, as amended, which is hereby adopted and made a part of this chapter.

160.04 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

160.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.06 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.09 FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the special flood hazard areas shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.

- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site

systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.10 ADMINISTRATION. The Zoning Administrative Officer shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

160.11 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.12 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.

5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.13 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.15 VARIANCES. The Zoning Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Zoning Board of Adjustment shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

13. Such other factors which are relevant to the purpose of this chapter.

160.17 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.16, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

160.18 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.19 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

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CHAPTER 165
ZONING REGULATIONS

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165.01 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules and regulations or ordinances, the provisions of this chapter shall control. Where for specific land, the requirements of any other ordinance of the City are more stringent or restrictive than the requirements set forth herein, nothing herein shall be construed to waive compliance with the provisions of such other ordinance.

165.02 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined. As used herein, the word “building” shall include the word “structure.”

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. “Alley” means a public way for the use of vehicles affording a secondary means of access to abutting property.
3. “Apartment” means a room or suite of rooms in a multi-family dwelling intended or designed for use as a residence by a single family.
4. “Basement” means a story having part but not more than one-half (½) its height below grade. A basement is counted as a story.
5. “Beginning of construction” means the incorporation of labor and materials within the walls of the building or buildings.

6. “Billboard” means any structure or portion of a building used for display of advertising or any advertising sign other than:
 - A. Church or similar bulletin board.
 - B. Signs pertaining only to the lease, hire, or sale of a building or premises, which is located on the subject building or premises.
 - C. Signs advertising the sale of products grown only upon the premises.
 - D. An announcement or identification sign carrying the name and address of the owner or tenant residing on the premises.
7. “Building” means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.
8. “Building, height of” means the vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
9. “Bulk stations” means distributing stations commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids, or liquefied petroleum products.
10. “Cellar” means that portion of a building having more than one-half of its height below grade. A cellar is not counted as a story.
11. “District” means a section or sections of the City within which the regulations governing the use of buildings and premises, or the height and area of buildings and premises, are uniform.
12. “Dwelling” means any building, or portion thereof, which is designed or used exclusively for residential purposes.
13. “Dwelling, single-family” means a dwelling designed for or occupied exclusively for residence purposes by one family or housekeeping unit.
14. “Dwelling, “two-family” means a dwelling designed for or occupied exclusively by two families, or housekeeping units, living independently of each other.
15. “Dwelling, multi-family” means a dwelling designed for, or occupied by more than two families, or housekeeping units, living independently of each other.
16. “Family” means a group of one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from

a group occupying a boarding house, lodging house, or hotel, as defined herein.

17. “Fence” means an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

18. “Frontage” means all the property on one side of a street between two intersecting streets measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

19. “Garage” means a building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired or kept.

20. “Garage, private” means a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.

21. “Garage, public or storage” means a building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.

22. “Grade” means the average level of the finished surface of the ground adjacent to the building.

23. “Home occupation” means any occupation or activity carried on by a member of the immediate family residing on the premises, in connection with which there is used no sign other than a name plate affixed to the outer wall, of not more than one square foot in area, which will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; there is kept no stock in trade or commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises.

24. “Hotel” means a building in which lodging or boarding and lodging are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

25. “Junk yard” means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, automobile, tractor, or machinery wrecking and used parts yards, but not including areas where such uses are conducted entirely within a completely enclosed building, and not

including the processing of used discarded, or salvaged materials as part of the manufacturing operation.

26. "Lot" means a parcel of land occupied, or intended for occupancy by one main building, together with its accessory buildings officially approved, and having frontage upon a public street.

27. "Lot, corner" means a lot abutting upon two (2) or more streets at their intersection.

28. "Lot, depth of" means the mean horizontal distance between the front and rear lot lines

29. "Lot, double frontage" means a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

30. "Lot, interior" means a lot other than a corner lot.

31. "Lot lines" means the lines bounding a lot.

32. "Lot of record" means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Kossuth County, or a parcel of land, the deed of which was recorded in the office of the County Recorder of Kossuth County prior to the adoption of this Zoning Ordinance.

33. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

34. "Motel, auto court" means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached, or parking facilities conveniently located near each such unit.

35. "Nonconforming use" means any building or land lawfully occupied by a use at the time of passage of this Zoning Ordinance or amendments hereto, which does not conform after the passage of this Ordinance, or amendments thereto with the use regulations of the district in which it is situated.

36. "Parking space" means an area of not less than two hundred fifty (250) square feet, either within a structure or in the open, exclusive of the driveway or access drives, for the parking of a motor vehicle.

37. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

38. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and the wall face not more than four

feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.

39. “Street” means a public right-of-way that affords the principal means of access to abutting property.

40. “Street line” means a dividing line between a lot, tract, or parcel of land and a contiguous street.

41. “Structure” means anything constructed or erected, the sum of which requires permanent location on the ground, or attached to something having a permanent location on the ground.

42. “Structural alteration” means any replacement or changes in the type of construction or in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance, as may be required for the safety of the building.

43. “Tourist home” means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.

44. “Trailer” means any structure, including a mobile home, used for living, sleeping, business, or storage purposes having no foundation other than wheels, blocks, skids, jacks, or skirtings, and which has been, or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term “trailer” includes camp cars and house cars.

45. “Trailer park” means any lot, or portion of a lot upon which two (2) or more trailers or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

46. “Yard” means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a lot for the purpose of determining the depth of a front yard, or the depth of the rear yard, the least distance between the lot line and the main building shall be used.

47. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building, or any projection thereof, other than the projection of the usual steps or unenclosed porches.

48. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the building, or any

projections other than steps, unenclosed balconies, or porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. The rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

49. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building, or any projection thereof.

50. “Zoning Administrative Officer” means the individual appointed by the Council to administer and enforce the provisions of the Zoning Ordinance.

165.03 ESTABLISHMENT OF DISTRICTS; ZONING MAP. In order to classify, regulate, and restrict the location of trades, industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City is hereby divided into six (6) classes of districts. The use, height, and area regulations are uniform in each class of district, and said districts shall be known as:

A-1 Rural Restricted

R-1 Residential District

R-2 Residential District

C-1 Commercial District

I-1 Industrial District

I-2 Industrial District

The boundaries of these districts are indicated upon the Zoning District Map of the City, which map is made a part of this chapter by reference. The said Zoning District Map and all the notations, references, and other matters shown thereon shall be as much a part of this chapter as if the notations, references, and other matters set forth by said map were all fully described herein; the original of which is properly attested, and is on file in the office of the Clerk.[†]

165.04 INTERPRETATION OF DISTRICT BOUNDARIES. The district boundaries are either lot lines, or the centerlines of streets and alleys, unless otherwise shown, and where the districts designated are bounded approximately by street, alley, or lot lines, and are not dimensioned otherwise, the lot lines or centerlines of streets and alleys shall be construed to be the boundary of the

[†] See *EDITOR'S NOTE* at the end of this chapter for ordinances amending the zoning map.

district. All territory which may hereafter be annexed to the City shall be considered as being in the "A-1" Rural Restricted District until otherwise changed by ordinance.

165.05 CONFORMANCE REQUIRED. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this chapter for the district in which the building or land is located.

165.06 NONCONFORMING USES. The lawful use of a building or land existing on the effective date of the Zoning Ordinance may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, the nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use, or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were manifestly arranged or designed for such use at the time of the enactment of the Zoning Ordinance.

165.07 DISCONTINUANCE OF NONCONFORMING USE. No premises, building, or portion thereof, used in whole or part for nonconforming purposes according to the provisions of this chapter, which hereafter become and remain vacant for a continued period of two (2) calendar years, shall again be used except in conformity with the regulations of the district in which such building or premises is situated.

165.08 DAMAGED NONCONFORMING BUILDINGS. No building which has been damaged by fire, explosion, act of God, or the public enemy, to the extent of more than sixty-five percent (65%) of the fair market value of the building immediately prior to damage shall be restored except in conformity with the regulations of this chapter. If a building is damaged by less than sixty-five percent (65%) of the fair market value, it may be repaired or reconstructed, and used as before the time of the damage, provided that such repairs and reconstruction be done within twelve (12) months of the date of such damage.

165.09 ACCESSORY BUILDINGS. No accessory building shall be erected in any required court, or in any yard other than a rear yard except as provided herein. Accessory buildings shall be at least two (2) feet from lot lines of adjoining lots which are in any "R" District; on a corner lot they shall conform to the setback regulations on the side street; there shall be at least five (5) feet from any other separate building or structure on the same lot and at least five (5) feet from any alley line, except that when any entrance to an accessory

building faces the alley, said accessory building shall be at least twenty (20) feet from any alley line. Accessory buildings may be erected as part of the principal building, or may be connected thereto by a breezeway or similar structure, and such accessory building shall be considered as part of the principal building for all yard requirements. A carport or garage for a residence may be in a side yard provided that a full required side yard is provided between the garage or carport and the side lot line. An accessory building within sixty (60) feet of the front lot line shall have a full side yard between it and the side lot line. Accessory buildings which are not a part of the main building shall not occupy more than thirty percent (30%) of the rear yard, and shall not exceed fifteen (15) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a five hundred fifty (550) square foot garage on a minimum rear yard.

165.10 CORNER LOTS. For corner lots platted after the effective date of the Zoning Ordinance, the side street yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. If there are no lots to the rear having frontage on the intersecting street, the side yard shall be not less than fifty percent (50%) of the front yard requirement. On corner lots platted and of record at the time of the effective date of the Zoning Ordinance, the same regulations shall apply, except that this regulation shall not be so interpreted as to reduce the buildable width of the corner lot facing an intersecting street to less than twenty-eight (28) feet or to prohibit the erection of an accessory building.

165.11 FRONT YARD. In any "R" District there shall be a minimum front yard required as stated in the yard requirements for that particular district, provided that in no case shall the front yard depth be less than the smallest front yard depth of an existing building within two hundred (200) feet of either side lot line.

165.12 REQUIRED YARD CANNOT BE REDUCED. No lot shall be reduced in size so as to make the width or total area of the lot, or any yard, or any other open space, less than the minimum required by this chapter. No part of a yard or other open space provided about a building or structure for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required under this chapter for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space, except as otherwise specified in this chapter.

165.13 BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the Planning and Zoning Commission, and on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front or side yard line, the building line thus shown shall apply along such frontage in place of any other yard line required

in this chapter, unless specific yard requirements in this chapter require a greater setback.

165.14 TRAILERS FOR RESIDENTIAL USE. Trailers may be used as a substitute for a residential structure within the Residential Districts, provided all yard and area requirements of that district are met.

165.15 GENERAL REGULATIONS FOR RESIDENTIAL DISTRICTS.

1. Any unsightliness due to the appearance of any building or structure on the premises is not permitted.
2. No pole type buildings shall be erected. No garage or outside storage buildings shall have a side wall height greater than ten (10) feet or a peak height greater than fifteen (15) feet.
3. All accessory buildings must have a hip or peaked roof.
4. No quonset type buildings are allowed.
5. All garages must have peaked roofs.
6. No galvanized steel siding will be permitted on any structure.
7. All buildings will be required to be placed or built upon a solid cement block or cement foundation. A free floating cement surface may be used as a foundation provided that the structure does not hang over the cement slab and the cement is at least three (3) inches thick.

165.16 A-1 RURAL RESTRICTED DISTRICT. The regulations set forth in this section, or elsewhere in this chapter when referred to in this section, apply in the “A-1” Rural Restricted District.

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

- (1) Single-family dwellings.
- (2) Farms, truck gardens, orchards and nurseries, provided that no poultry or livestock shall be raised within 100 feet of any residence or residential district.
- (3) Transient amusement enterprises, such as carnival, circus, rides and shows, subject to approval by the Council.
- (4) Extraction of minerals or raw material, subject to prior recommendation from the Planning and Zoning Commission and approval by the Council.
- (5) Churches, institutions of a religious, philanthropic, or charitable nature except penal or correctional institutions.
- (6) Public schools, public parks, playgrounds, community buildings, and similar community facilities.
- (7) Public and private forests and wildlife reservations, or similar conservation projects.
- (8) Public utility structures and equipment necessary for the operation thereof.
- (9) Outdoor advertising signs and billboards, provided that prior recommendation is obtained for such signs and/or billboards from the Planning and Zoning Commission, and approval granted by the Council.

B. Accessory Uses:

- (1) Accessory buildings and uses customarily incident to any of the above uses.
- (2) Bulletin boards and signs pertaining to the lease, hire, or sale of a building or premises; or signs pertaining to any material that is grown or treated within the district; provided, however, that such signs shall be located upon,

or immediately adjacent to the building, or in the area in which such materials are treated, processed, or stored.

2. Height Regulations. No building shall exceed two and one-half (2½) stories, nor shall it exceed thirty-five (35) feet in height, except as hereinafter provided.
3. Lot Area, Lot Frontage and Yard Requirements. The following minimum requirements shall be observed:

Use	Dwellings	Other Permitted Uses
Lot Area	1 acre	
Lot Width	160 feet	
Lot Area Per Family	1 acre	
Front Yard Depths	50 feet	50 feet
Side Yard Widths:		
Least width on any one side	15 feet	15 feet
Minimum sum of both side yards	30 feet	30 feet
Rear Yard Depths	50 feet	50 feet

165.17 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT. The regulations set forth in this section, or elsewhere in this chapter which are applicable, shall apply in the “R-1” Residential District.

1. Use Regulations. A building or premises shall be used only for the following purposes:
 - A. Principal Permitted Uses:
 - (1) Single-family dwellings.
 - (2) Churches and accessory buildings.
 - (3) Public and private schools, or other educational institutions.
 - (4) Noncommercial parks, playgrounds, and community buildings owned or operated by public or semi-public agencies.
 - (5) Agriculture, including truck gardening, but not the raising of poultry, pets, or livestock for commercial purposes, or on a schedule that would be objectionable because of noise or odor to surrounding residences.
 - B. Accessory Uses:

- (1) Home occupations.
 - (2) Bulletin boards, or signs not exceeding fifty (50) square feet in area pertaining to the construction, lease, hire, or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, sold, or construction completed.
 - (3) Church bulletin boards.
2. Height Regulations. No building shall exceed two and one-half (2½) stories, or thirty-five (35) feet, in height, and no accessory structure shall exceed one (1) story, or fifteen (15) feet in height.
3. Lot Area, Lot Frontage, And Yard Requirements. The following minimum requirements shall be observed, subject to the modifications contained within Section 165.24, *Exceptions and Modifications*.

Use	Dwellings	Other Permitted Uses
Lot Area	7,500 sq. feet	10,000 sq. feet
Lot Width	60 feet	80 feet
Lot Area Per Family	7,500 sq. feet	
Front Yard Depths	30 feet	35 feet
Side Yard Widths:		
Least width on any one side	7 feet	8 feet
Minimum sum of both side yards	15 feet	20 feet
Rear Yard Depths	35 feet	35 feet

165.18 R-2 RESIDENTIAL DISTRICT. The regulations set forth in this section, or elsewhere in this chapter which are applicable, shall apply in the “R-2” Residential District.

- 1. Use Regulations. A building or premises shall be used only for the following purposes:
 - A. Principal Permitted Uses:
 - (1) Any use permitted in the “R-1” District.
 - (2) Two-family and multi-family dwellings.
 - (3) Funeral homes and mortuaries.
 - (4) Boarding and lodging houses.
 - (5) Institutions of a religious, educational, or philanthropic nature.

(6) Hospitals, clinics, nursing and convalescent homes, excepting animal hospitals and clinics.

(7) The office or studio of a doctor, dentist, lawyer, teacher, or other member of a recognized profession in his or her dwelling, provided that not more than the equivalent of one third (1/3) of the area of the dwelling shall be used for such purposes.

B. Accessory Uses:

(1) Accessory uses permitted in the “R-1” District.

2. Height Regulations. No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height.

3. Lot Area, Lot Frontage, and Yard Requirements. The following minimum requirements shall be observed, subject to the modifications contained within Section 165.24, *Exceptions and Modifications*.

Use	One Family	Two Family	Multi-family	Other Permitted Uses
Lot Area	7,500 sq. ft.	7,500 sq. ft.	7,500 sq. ft.	7,500 sq. ft.
Lot Width	60 feet	60 feet	70 feet	60 feet
Lot Area Per Family	7,500 sq. ft.	3,750 sq. ft.	2,500 sq. ft. for first 3 families & 1,000 for each added family	
Front Yard Depths	30 feet	30 feet	30 feet	30 feet
Side Yard Widths: Least width on any one side Minimum sum of both side yards	5 feet 12 feet	7 feet 15 feet	7 feet 15 feet	5 feet 12 feet
Rear Yard Depth	30 feet	30 feet	30 feet	30 feet

165.19 C-1 COMMERCIAL DISTRICT. The regulations set forth in this section, or elsewhere in this chapter which are applicable, shall apply in the “C-1” Commercial District.

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

- (1) Any use permitted in the “R-2” Residential District.
- (2) Shops for sale of goods and products at retail, including gasoline service stations.
- (3) Shops for repair and servicing of electrical, radio and television appliances, bicycles, and similar articles.
- (4) Laundry, dry cleaning, shoe repair, tailoring, dressmaking, and similar trade.
- (5) Banks, offices, and studios.
- (6) Personal service shops, such as barber shops and beauty parlors.
- (7) Animal hospitals and clinics where there are no open kennels or yards.
- (8) Parking lots and storage garages.
- (9) Theatres.
- (10) Heating, plumbing, sheet metal, and electrical shops.
- (11) Auto service garages, new and used car lots.
- (12) Farm implement sales and repair shops.
- (13) Ballrooms, billiard parlors, pool halls, and bowling alleys.
- (14) Restaurants, cafes, and soda fountains.
- (15) Lumber yards, carpenter and cabinet shops.
- (16) Hotels, motels, and auto courts.
- (17) Outdoor advertising signs.
- (18) Trailer parks.
- (19) Wholesale business or storage warehouse.

B. Conditional Uses. In the “C-1” Commercial District, as long as the uses are not obnoxious or offensive, due to the emission of noise, odor, dust or vibration, there may also be

- (1) Dairy products manufacturing.
- (2) Commercial bakeries.
- (3) Cleaning, dyeing, and laundry works.
- (4) Food and fiber products manufacturing.
- (5) Sign painting shops.
- (6) Truck terminals, trailer and truck services.
- (7) Wood products manufacturing.
- (8) Other uses similar to the above in accordance with requirements shown within Section 165.25, *Board of Adjustment*.

C. Accessory Uses:

- (1) Accessory uses permitted in the “R-2” District.
- (2) Outdoor advertising signs and billboards, provided that no such sign or billboard shall be permitted where the majority of the buildings on a block are exclusively residence on both sides of the street, or which faces the front or side lot line of any lot in any “R” District used for residential purpose; or which faces any public parkway, public square, or entrance to any public park, school, church, or similar institution within 300 feet thereof. No sign shall be located in such a manner or place as will constitute a hazard to endanger or impair the safety of pedestrians or motorists. No flashing signs shall be allowed on the sides of lots adjacent to a residential district.
- (3) Accessory uses and structures customarily incidental to any permitted principal use.

2. General Regulations. The following general regulations apply for the C-1 Commercial District:

- A. No buildings shall exceed three (3) stories or thirty-five (35) feet in height.
- B. No quonset type buildings are allowed.

C. No galvanized steel siding will be permitted on any structure.

D. All buildings will be required to be placed on a block or cement foundation or pole frame construction. All buildings must have a cement floor with a minimum thickness of four (4) inches.
(Ord. 603 – Aug. 06 Supp.)

3. Lot Area, Lot Frontage, and Yard Requirements. The following minimum requirements shall be observed, subject to the modifications contained within Section 165.24, *Exceptions and Modifications*.

Use	Dwellings	Motels & Auto Courts	Trailer Parks	Other Permitted Uses
Lot Area	Same as “R-2” District	½ acre	½ acre	None
Lot Width	Same as “R-2” District	100 feet	100 feet	None
Lot Area Per Family	Same as “R-2” District	1500 sq. ft.	See Note*	
Front Yard Depths	Same as “R-2” District	30 feet	30 feet	None
Side Yard Widths: Least width on any one side	Same as “R-2” District	15 feet	15 feet	None except adjacent to an “R” District, in which case not less than 10 feet
Minimum sum of both side yards	Same as “R-2” District	30 feet	30 feet	
Rear Yard Depth	Same as “R-2” District	20 feet	20 feet	None

*Note: Trailer courts shall provide a minimum of 1,250 square feet of space, excluding drives, automobile parking spaces, and accessory buildings for each and every trailer accommodated. Each trailer space shall be at least 25 feet wide, and shall provide a yard not less than 5 feet wide on every side of the trailer. No trailer shall be located closer than 15 feet from any property line bounding the court.

All building permit applications for other permitted uses will be referred to the Planning and Zoning Commission for their recommendation to the City Council on setting the front and rear yard depth and side yard width.
(Ord. 603 – Aug. 06

Supp.)

165.20 I-1 INDUSTRIAL DISTRICT. The regulations set forth in this section, or elsewhere in this chapter which are applicable, shall apply in the “I-1” Industrial District.

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

- (1) Grain elevators.
- (2) Light foundry casting.
- (3) Iron works, ornamental.
- (4) Paper products manufacturing.
- (5) Plastic products manufacturing (previously prepared material).
- (6) Contractor’s storage yard.
- (7) Well drilling services.
- (8) Seed corn processing.
- (9) Other uses similar to the above, which will not be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, or noise, provided that permission is granted in accordance with the procedure outlined within Section 165.25, *Board of Adjustment*.
- (10) Storage garages. *(Ord. 617 – Jun. 09 Supp.)*

B. Accessory Uses:

- (1) Any accessory use permitted in “C-1” Commercial District.
- (2) Any accessory uses customarily incidental to a permitted principal use.

2. Required Conditions. No use shall be permitted to be established or maintained which, by reason of its nature or manner of operation, is or may become hazardous, obnoxious, or offensive due to the emission of odor, dust, smoke, gas fumes, noise, vibrations, refuse matter, or water-carried waste.

3. Height Regulations. No structure shall exceed in height the distance measured to the right-of-way line of the nearest street, or one-half the distance of a line measured to the closest lot line of a more

restrictive classification of property from any portion of the proposed building or structure except hereinafter modified by Section 165.24, *Exceptions and Modifications*.

4. Yard Requirements. The following minimum requirements shall be observed subject to the modifications contained within Section 165.24, *Exceptions and Modifications*.

Use	Permitted Uses
Front Yard Depths	30 feet
Side Yard Widths (Each Side Yard)	None required – except adjacent to an “R” District in which case not less than 15 feet
Rear Yard Depths	30 feet

165.21 I-2 INDUSTRIAL DISTRICT. The regulations set forth in this section, or elsewhere in this chapter which are applicable, shall apply in the “I-2” Industrial District.

1. Use Regulations. A building or premises may be used for any purpose, subject to the requirements and conditions contained in this section:

A. No zoning permit shall be issued for any use in conflict with any Ordinance of the City or law of the State regulating nuisances.

B. No zoning permit shall be issued for any dwelling, school, hospital, clinic, or other institutions for human care, except where incidental to a permitted principal use.

C. No zoning permit shall be issued for any of the following uses until, and unless, the location of such use shall have been authorized by the Council after reports by the Planning and Zoning Commission, City Engineer, Fire Chief and the local Health Officer:

- (1) Abattoirs and slaughterhouses, or stockyards.
- (2) Acid manufacturing or wholesale storage of acids.
- (3) Cement, lime, gypsum, or plaster of paris manufacture.
- (4) Chemical manufacturing.
- (5) Distillation of bones, or fat rendering.
- (6) Explosive manufacture, or storage.
- (7) Fertilizer manufacture.
- (8) Garbage, offal or dead animal reduction or dumping, provided that all refuse is earth-covered daily.
- (9) Gas manufacture and cylinder recharging.
- (10) Glue, size, or gelatine manufacture.
- (11) Junk yards, where the premises upon which such activities are conducted is wholly enclosed within a building, wall, or fence, not less than six (6) feet in height, and completely obscuring the activity from sight from surrounding lots, streets, or highways.
- (12) Petroleum, or its products, refining, or wholesale storage of.

- (13) Rubber goods manufacture.
 - (14) Sand or gravel pits.
2. Required Conditions.
- A. The best practical means known for the disposal of refuse matter, or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, shall be employed.
 - B. All principal buildings and accessory buildings or structures, including loading and unloading facilities, shall be located at least one hundred (100) feet from any residential district, and not less than fifty (50) feet from any commercial district.
3. Height Regulations. No structure shall exceed in height the distance measured to the centerline of the nearest street from any portion of the proposed building or structure, except as hereinafter modified by Section 165.24, *Exception and Modifications*.
4. Yard Regulations. The following minimum requirements shall be observed subject to the modified requirements contained within Section 165.24, *Exceptions and Modifications*.

Use	Permitted Uses
Front Yard Depths	30 feet
Side Yard Widths	None required – except adjacent to an “R” District in which case not less than 50 feet
Rear Yard Depths	30 feet

165.22 OFF-STREET LOADING AREA REQUIRED. In any district, except the “C-1” Commercial District, in connection with every building, or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is occupied by manufacturing, storage, goods display, retail store, wholesale store, hotel, hospital, or other use similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet, or major fraction thereof, of gross floor area so used. Each loading space shall be not less than ten (10) feet in width and twenty-five (25) feet in length. Such space may occupy any part of the required yard, or court space.

165.23 OFF-STREET PARKING AREA REQUIRED.

1. In all districts, except the “C-1” Commercial District, in connection with every industrial, business, institutional, recreational, or dwelling use, and for similar uses, space for parking and storage of vehicles shall be provided of sufficient area to care for the normal parking demands of the building involved. However, in no case shall the parking area provided be less than that shown on the following schedule:
 - A. Automobile sales and service garages, banks, business and professional offices, retail stores – fifty percent (50%) of the floor area.
 - B. Bowling alleys – five (5) spaces for each alley.
 - C. Churches and schools – one (1) space for each five (5) seats in the principal auditorium. If there is no auditorium, one (1) space for each office and each classroom.
 - D. Dance halls, assembly halls, restaurants – two hundred percent (200%) of the floor area.
 - E. Dwelling – one (1) parking space for each family or dwelling unit.
 - F. Hospitals – one (1) space for each four (4) beds.
 - G. Manufacturing plants – one (1) space for each three (3) employees on the maximum working shift.
 - H. Theatres or assembly halls with fixed seats – one (1) parking space for each four (4) seats.
 - I. Wholesale establishments or warehouses – one (1) space for each employee.

2. In case of any building, structure, or premises, the use of which is not specifically mentioned herein, the provisions for a use which is mentioned and to which said use is similar, shall apply.
3. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight (8) feet in width in the case of a dwelling, and not less than sixteen (16) feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder.
4. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
 - A. No part of any parking space shall be closer than five (5) feet to any established street right-of-way, or alley line.
 - B. Any off-street parking area, including any commercial parking lot, for more than two (2) vehicles, shall be surfaced with a material approved by the Council, so as to provide a durable surface; shall be graded and drained so as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading, and parking and storage of self-propelled vehicles.
 - C. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any residential district.

165.24 EXCEPTIONS AND MODIFICATIONS. The regulations specified in this chapter are subject to the following exceptions and interpretations:

1. Use of Existing Lots of Record. In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of the Zoning Ordinance, irrespective of its area or width, provided, however:
 - A. The side yard width of any such lot shall not be less than ten percent (10%) of the width of the lot, and in no case less than five (5) feet.
 - B. The depth of the rear yard of any such lot shall be not less than twenty percent (20%) of the depth of the lot, but in no case less than ten (10) feet.

2. Structures Permitted Above Height Limit. The building height limitations of this chapter shall be modified as follows:
 - A. Chimneys, fire towers, monuments, water towers, ornamental towers and spirals, radio or television towers, or necessary mechanical appurtenances may be erected to a height in excess of the height regulations shown for a particular district, provided that a report and recommendation is made by the Planning and Zoning Commission, and final approval for such exception is granted by the Council.
 - B. Public, semi-public, or public service buildings, hospitals, or schools, when permitted in a district, may be erected to a height in excess of the height allowed in the district, provided that the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit in the district.
3. Area Requirements. In any district, where neither public water supply nor public sanitary sewer is available, the lot area requirements shall be twenty thousand (20,000) square feet minimum, and lot widths at building line one hundred (100) feet minimum. Where either public water supply or sanitary sewer is accessible, these requirements shall be reduced to fifteen thousand (15,000) square feet and seventy-five (75) feet, respectively.
4. Double Frontage Lots. Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.
5. Exceptions to Prohibited Uses. The Council may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this chapter:
 - A. Any public building erected and used by any department of the City, County, State or Federal Government.
 - B. Airport or landing field.
 - C. Community building or recreation field.
 - D. Country clubs and golf courses.
 - E. Public and private cemeteries.

Before issuance of any special permit for any of the above buildings or uses, the Council shall refer the proposed application to the Planning and Zoning Commission, which shall make a report within forty-five (45) days regarding the effect of such proposed building or use upon the

character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building, or use above referred to until and unless the report of the Planning and Zoning Commission has been filed, provided, however, that if no report is received within forty-five (45) days, it shall be assumed that the approval of the application has been given by the Commission.

6. Utilities and Railroads. Existing utilities and railroads may continue to be operated and maintained in dwelling and commercial districts, but no new utility or railroad structure, other than the usual poles, wires, and underground utilities shall be established in such districts except when so authorized by the Board of Adjustment.

7. Fences.

A. Materials. Fences shall be constructed of material commonly used for landscape fencing such as masonry block, lumber, chain-link, wrought iron or natural plantings, but shall not include barbed wire, corrugated sheet metal or salvage material. Use of any other fencing material shall require Board of Adjustment approval.

B. Placement. On corner lots in residential districts, no fence, structure or planting shall be maintained within fifteen (15) feet of the owner's property line, which would impair the sight distance of the operators of motor vehicles. Rail fences are exempt from such visibility requirements. All fences shall stay three (3) feet off the side and back property lines so that the fence owner can maintain both sides of the fence and mow on the back side of the fence. Other than corner-on portions of a lot not covered by street or alley intersection restrictions, the height of fences of any length and foliage continuous for 5 feet or more shall be limited to 42 inches on any street line and the front fifty (50) feet of any side lot line. On all other portions of lots lines, fences, hedges and continuous foliage barriers may not exceed a height of eighty (80) inches.

(Ord. 583 – Mar. 01 Supp.)

8. Ramps for Persons with Disabilities. The construction of temporary ramps for persons with disabilities requires a building permit; however, ramps are exempt from the front yard requirements. Ramps must be removed when the ramp is no longer a necessity.

(Ord. 622 – Jan. 10 Supp.)

165.25 BOARD OF ADJUSTMENT.

1. Board Created. The Council shall appoint a Board of Adjustment which is hereby established, and shall consist of five (5) members of which not more than two (2) shall be from the Planning and Zoning Commission. The terms of office of the members of Board of Adjustment and the manner of their appointment, shall be as provided by statute.
2. Meetings. The meetings of the Board of Adjustment shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson, the acting Chairperson, may administer oaths, and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt its own rules of procedure not in conflict with this chapter, or with the Iowa Statutes, and may select or appoint such officers as it deems necessary. The Board shall keep minutes of its proceedings showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board, and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.
3. Appeals. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any decision of the Zoning Administrative Officer. Such appeal shall be taken within ten (10) days by filing with the Zoning Administrative Officer, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrative Officer certifies to the Board after notice of appeal shall have been filed with such officer, that by reason of the facts stated in the certificate, a stay would, in the opinion of such officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board, or by a court of record on application on notice to the Zoning Administrative Officer, and on due cause shown. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Before the appeal is filed with the

Board of Adjustment, the appellant shall pay a fee of twenty-five dollars (\$25.00) to the Treasurer to be credited to the General Fund of the City.

(Ord. 590 – Aug. 03 Supp.)

4. Jurisdiction. The Board of Adjustment shall have the following powers, and it shall be its duty:

A. To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Zoning Administrative Officer in the enforcement of this chapter.

B. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(1) Permit the extension of a district where the boundary line of a district divides a lot-of-record held in a single ownership.

(2) To grant a variation in the regulations when a property owner can show that his or her property was acquired in good faith, and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions, or other extraordinary situations, the strict application of the terms of this chapter actually prohibits the use of such property in a manner reasonably similar to that of other property in the district, and where the Board is satisfied under the evidence before it, that the granting of such variation will alleviate a clearly demonstrable hardship; provided, however, all variations granted under this clause shall be in harmony with intended spirit and purpose of this chapter.

(3) Permit the erection and use of a building, or the use of premises for railroads, or public utility purposes.

(4) Permit the reconstruction of a nonconforming building, which has been damaged by explosion, fire, act of God, or the public enemy to the extent of more than sixty-five percent (65%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use, and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

(5) To reduce the parking and loading requirements in any of the districts whenever the character or use of the

buildings is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(6) To determine the district in which a commercial venture or industry should be located where such commercial venture or industry is not specifically mentioned in this chapter. Such classification shall be based upon comparison with other similar uses specifically mentioned, and on an evaluation of its operation and effect upon uses within the surrounding district, or districts.

In considering all appeals, and all proposed exceptions or variations to this chapter, the Board shall, before making any exceptions or variations, first determine that it will not impair the safety and welfare of the occupants of adjoining and surrounding property, that health has been adequately safeguarded, that it will not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public street, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in surrounding areas. The concurring vote of three (3) members of the Board shall be necessary to reverse any order or decision of the Zoning Administrative Officer, or to decide in favor of the applicant on any matter upon which it is authorized by this chapter to render a decision. Nothing herein contained shall be construed to give or grant to the Board of Adjustment the power or authority to alter or change this Zoning Ordinance, or the Zoning District Map, such power and authority being reserved to the Council in the manner hereinafter provided in Section 165.33, *Amendments*.

5. Notice. The Board shall make no finding except in a specific case, and after a public hearing conducted by the Board. A notice of the time and place of public hearing shall be published in a Kossuth County publication of general circulation in the City not less than seven (7) days nor more than twenty (20) days prior to the hearing. Such notice shall contain the address or location of the property for which variation, or other ruling by the Board is sought, as well as a brief description of the nature of the appeal.

6. Records. The action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision, and the vote of each member participating therein, have been

recorded in the minutes. Such resolution, immediately following the Board's final decision, shall be filed in the office of the Board, and it shall be open to public inspection. Every variation and exception granted or denied by the Board shall be supported by a written testimony, or evidence submitted in connection therewith.

7. Relief. Any taxpayer, or any officer, department, or board of the City or any person or persons jointly or separately aggrieved by any decision of the Board may present to a court of record a petition to be 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 thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition, the court may direct the Board to review such decision of the Board, and shall prescribe therein the time within which a return thereto shall be made, which shall be not less than ten (10) days, and may be extended by the court. The allowance of the writ shall not stay proceedings on the decision appealed from, but the court may, on application, upon notice to the Board, and on due cause shown, grant a restraining order. If, upon the hearing, it shall appear to the court that testimony is necessary for proper disposition of the matter, it may take such evidence, or appoint a referee to take such evidence as it may direct, and report the same to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review. Costs shall not be allowed against the Board, unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

165.26 ENFORCEMENT. The Council shall appoint an Administrative Officer and necessary assistants and it shall be the duty of said officer to enforce this chapter. It shall also be the Administrative Officer's duty to examine all applications for certificates and permits, issue certificates and permits for construction and the establishment of uses which are in accordance with the requirements of this chapter, record and file all applications for certificates and permits with accompanying plans and documents, and make such reports as the Council or the Board of Adjustment may require. Certificates and permits for construction and uses which are a special exception or variance to requirements of this chapter shall be issued only upon order by the Board of Adjustment. The Administrative Officer shall have the authority to enter upon any premises for inspection purposes.

165.27 BUILDING PERMIT REQUIRED. A Building Permit shall be obtained from the Administrative Officer before starting or proceeding with the erection, construction, moving in or the structural alteration of a building or structure. The Mayor shall appoint two (2) Council members to review all building permits before issuance of the same. If the permit is not approved by the two Council members, it then must be taken to either the Planning and Zoning Commission or Board of Adjustment. A sketch for all new construction is required from the property owner when requesting a permit.

165.28 OCCUPANCY CERTIFICATE REQUIRED. An Occupancy Certificate shall be obtained from the Administrative Officer before the use or occupancy of any building, structure, mobile home or land may commence for any use.

165.29 BILLBOARDS. All billboards shall hereafter require permits before erection and shall therefore be registered with the Administrative Officer. Only one permit is required for a double face or V-type advertising device. Certificates in good standing shall not be assignable from one party or company erecting and responsible for a billboard to another; however, the advertising face may be changed without effect to a certificate in good standing. The party or company erecting and responsible for each billboard shall be responsible for its proper maintenance and shall be subject to assessment of the costs incurred for removal of unmaintained billboards. The Administrative Officer is hereby granted the power to effect the removal of said unmaintained billboards after proper notice has been given to responsible parties and after their failure to act within sixty (60) days of that notice. Removal of billboards shall cause revocation of that related certificate.

165.30 FEE. A fee for the issuance of said certificates in the amount of fifteen dollars (\$15.00) shall be paid to the Administrative Officer at the time of application. Fees shall be paid to the City at the office of the Administrative Officer.

165.31 ISSUANCE OF CERTIFICATES. The Administrative Officer shall issue, within seven (7) days of the completed application, a written Zoning Permit or Occupancy Certificate or denial thereof with reasons in writing. Except where an extension of time has been obtained in writing from the Administrative Officer, permits hereafter issued shall expire within ninety (90) days if a substantial beginning has not been made in the construction, or if the use applied for has not been established within one (1) year.

165.32 PLATS. Each application for a zoning permit shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and

such other information as may be necessary to provide for the enforcement of this chapter. The record of applications and plats shall be kept in the Zoning Administrative Officer's office.

165.33 AMENDMENTS. The Council may from time to time, on its own action, or on petition, after public notice and hearings as provided by law, and after report by the Planning and Zoning Commission, amend, supplement, or change the boundaries or regulations herein, or subsequently established, and such amendment shall not become effective except by the favorable vote of a majority of all the members of the Council. Whenever any person desires that any amendment, or change be made in this chapter, including the text and/or Zoning District Map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment, and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty percent (50%) of the area of all real estate included within the boundaries of said tract as described in said petition, it shall be the duty of the Council to vote upon such petition within ninety (90) days after the filing of such petition with the Clerk. In case the proposed amendment, supplement, or change is disapproved by the Planning and Zoning Commission, or a protest is presented duly signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot, or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending the depth of one lot, or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. Whenever any petition for an amendment, supplement, or change of the zoning, or regulations herein contained, or subsequently established shall have been denied by the Council, then no new petition covering the same property, or the same property and additional property, shall be filed with, or considered by the Council until one (1) year shall have elapsed from the date of the filing of the first petition. Before any action shall be taken as provided in this section, the party or parties proposing or recommending a change in the district regulations or district boundaries shall deposit with the Treasurer the sum of twenty-five dollars (\$25.00) to cover the approximate costs of this procedure, and under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

165.34 VIOLATION. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter, shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist constitutes a separate offense. The Zoning Administrative Officer is hereby designated and, ordered to enforce this chapter. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the Zoning Administrative Officer, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct business or use in or about said premises.

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