

CODE OF ORDINANCES
OF THE
CITY OF
CARTER LAKE, IOWA
2013

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**CODE OF ORDINANCES
OF THE
CITY OF CARTER LAKE, IOWA, 2013**

Adopted April 15, 2013, by Ordinance No. 632

SUPPLEMENT RECORD

[illegible]

Place in the front of the Code of Ordinances along with the Adopting Ordinance and Table of Contents.

CODE OF ORDINANCES

CITY OF CARTER LAKE, IOWA

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TITLE I – POLICY AND ADMINISTRATION

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
1.03 City Powers
1.04 Indemnity
1.05 Personal Injuries
1.06 Rules of Construction
1.07 Extension of Authority

1.08 Amendments
1.09 Catchlines and Notes
1.10 Altering Code
1.11 Severability
1.12 Warrants
1.13 General Standards for Action
1.14 Standard Penalty

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Carter Lake, Iowa, 2013.

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Carter Lake, Iowa.
3. “Clerk” means the city clerk of Carter Lake, 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 Carter Lake, Iowa, 2013.
6. “Council” means the city council of Carter Lake, Iowa.
7. “County” means Pottawattamie County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Carter Lake, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. "Shall" imposes a duty.
16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. "State" means the State of Iowa.
18. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.
19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for 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 this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the *Code of Iowa* shall be utilized to ascertain the intent of the Council with the understanding that the term “statute” as used therein will be deemed to be synonymous with the term “ordinance” when applied to this Code of Ordinances.

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

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

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 2

CHARTER

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

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

2.01 TITLE. This chapter may be cited as the charter of the City of Carter Lake, Iowa.[†]

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 205 adopting a charter for the City was passed and approved by the Council on February 3, 1975, and was published on February 7, 1975.

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TITLE I – POLICY AND ADMINISTRATION

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 Carter Lake as now or hereafter required by law.”

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars (\$1,500.00) in a fiscal year.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled, 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)

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TITLE I – POLICY AND ADMINISTRATION

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 twenty-five (25) eligible electors, residents of the City.
(*Code of Iowa, Sec. 45.1*)

6.03 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.
(*Code of Iowa, Sec. 45.2*)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the *Code of Iowa*, and shall be signed in accordance with the *Code of Iowa*.
(*Code of Iowa, Sec. 45.3, 45.5 & 45.6*)

6.05 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the *Code of Iowa*.
(*Code of Iowa, Sec. 45.4*)

6.06 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.
(*Code of Iowa, Sec. 376.8[3]*)

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TITLE I – POLICY AND ADMINISTRATION

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. Adjustments up to \$1500.00 may be made with the Mayor's approval, and any adjustments in excess of \$1500.00 require prior Council approval.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

TITLE I – POLICY AND ADMINISTRATION

CHAPTER 8

MUNICIPAL INFRACTIONS

8.01 Municipal Infraction
8.02 Environmental Violations
8.03 Penalties

8.04 Civil Citations
8.05 Alternative Relief
8.06 Criminal Penalties

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

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

8.02 ENVIRONMENTAL VIOLATIONS. 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.

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

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

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

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

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

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

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

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

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

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

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

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

8.05 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])

8.06 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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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 9

URBAN REVITALIZATION

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
496	April 10, 1996		
500	July 1, 1997		
516	October 19, 1999		
531	December 18, 2001		

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 10

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
501	August 5, 1997	Carter Lake Urban Renewal Project Area No. 1
512	December 15, 1998	Carter Lake Urban Renewal Project Area No. 2
513	December 15, 1998	Carter Lake Urban Renewal Project Area No. 3
553	March 30, 2004	Carter Lake Urban Renewal Project Area No. 4
594	August 20, 2007	Carter Lake Urban Renewal Area
605	March 17, 2008	Urban Renewal Area #6 Project Area
612	August 17, 2009	Carter Lake Urban Renewal Area #5

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 11

URBAN REVITALIZATION COMMISSION

11.01 Purpose

11.02 Membership; Appointment

11.03 Members; Qualifications

11.04 Members; Term of Office

11.05 Vacancies

11.06 Compensation

11.07 Liaison

11.08 Ex-Officio Members

11.09 Powers and Duties

11.10 Annual Reports

11.11 Support Staff

11.12 Appeal Rights

11.01 PURPOSE. The purpose of this chapter is to provide for the creation and appointment of a Carter Lake Urban Revitalization Commission for the purposes of implementing the City's administration of funds it receives for low and moderate income housing assistance under Chapter 403 of the *Code of Iowa*.

11.02 MEMBERSHIP; APPOINTMENT. The Carter Lake Urban Revitalization Commission, hereinafter referred to as the Commission, shall consist of five members. All Commission members shall be appointed by the Mayor with the approval of the Council.

11.03 MEMBERS; QUALIFICATIONS. All of the members of the Commission shall be residents of the City and shall be over the age of 18. If a question is raised as to residency, the jurisdiction where the individual is registered to vote shall be the determining factor.

11.04 MEMBERS; TERM OF OFFICE. All appointments to the Commission, except as provided below, shall be for a term of four years. Each term shall commence on the first day of July. In order to establish staggered terms, three of the initial appointments shall be for two-year terms.

11.05 VACANCIES. The position of a Commission member shall be deemed vacant if the member no longer meets the qualifications set out in Section 11.03 of this chapter. Any commissioner who misses more than 35% of the meetings in a calendar year shall be dismissed at the request of the Mayor or upon direct action by the Council. Vacancies on the Commission shall be filled by appointment by the Mayor, with the approval of the Council. Appointments made to fill vacancies shall be for the balance of the term of the Commission member being replaced.

11.06 COMPENSATION. The Commissioners shall receive no compensation for their services, but may be reimbursed for expenses incurred in the performance of their duties.

11.07 LIAISON. The Mayor shall appoint a member of the Council to act as a liaison between the Commission and the Council. The liaison will attend the meetings of the Commission and shall be permitted to take part in all discussions in the same fashion as a Commissioner. The liaison will not have the right to vote upon matters before the Commission.

11.08 EX-OFFICIO MEMBERS. The Mayor, from time to time, may appoint ex-officio members to the Commission. Ex-officio members shall be expected to attend meetings and be available to provide comments on issues. They will serve at the will of the Mayor and may be added to or removed from the Commission at the Mayor's sole discretion. Ex-officio members have no voting powers.

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

1. To meet and elect from its membership a Chairperson, Vice Chairperson, and such other officers deemed necessary.
2. To establish policy and long-term goals for the funds that become available to the City pursuant to the low and moderate income housing assistance under Chapter 403 of the *Code of Iowa* and to implement the programs as approved by the Council.
3. To develop, negotiate, oversee and award loans and/or grants pursuant to the operation of the programs adopted by the Council.
4. To make and adopt, amend, modify or repeal rules and regulations not inconsistent with this chapter or the laws of the City and State for implementation and use of the programs of the funds described herein.
5. To review the proposed budget for the program and to make recommendations regarding its adoption by the Council.
6. To monitor the expenditures of the funds allocated for the operation of the programs.

11.10 ANNUAL REPORTS. The Commission shall make annual reports to the Council. These reports shall contain statements of the activities of the Commission; the annual accounting of its finances from the previous fiscal year; and a proposed budget for the upcoming fiscal year. This report shall be due on the first day of December and is to be filed with the City Clerk.

11.11 SUPPORT STAFF. The Mayor shall designate and provide appropriate staff to assist the Commission in the performance of its duties, which assistance shall be paid from the Commission's funds.

11.12 APPEAL RIGHTS. Anyone who believes that a decision of the Commission was in error or incorrect may appeal the decision to the Council. Within five (5) working days of the Commission's decision, an aggrieved party wishing to appeal a decision of the Commission shall submit a written request for a hearing before the Council setting out the basis for the appeal. The Council shall convene to hold a hearing within fifteen (15) working days of the request. Within ten (10) days of the hearing, the Council shall render a written decision which shall be final and binding.

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, 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 Mayor Pro Tem, and the Mayor also appoints, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Library Board of Trustees
2. Parks and Recreation Board
3. Police Chief
4. Zoning Board of Adjustment
5. Carter Lake Prevention Coalition
6. Urban Revitalization Commission

15.04 COMPENSATION. The salary of the Mayor is twelve thousand dollars (\$12,000.00) per year, payable in equal monthly installments.

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

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

(Code of Iowa, Sec. 372.4)

TITLE I – POLICY AND ADMINISTRATION

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The 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 by a telephone call to each member of the Council, with a copy of the written notice left in the Council’s mailbox that is maintained at City Hall. 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])

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

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

1. City Clerk
2. City Attorney
3. Planning and Zoning Commission

17.06 COMPENSATION. The salary of each Council member is two hundred dollars (\$200.00) per month.

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

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 20

CITY CLERK

20.01 Appointment and Compensation
20.02 Powers and Duties: General
20.03 Publication of Minutes
20.04 Recording Measures
20.05 Publication
20.06 Authentication
20.07 Certify Measures

20.08 Records
20.09 Attendance at Meetings
20.10 Issue Licenses and Permits
20.11 Notify Appointees
20.12 Elections
20.13 City Seal

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

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

20.02 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.

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

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

20.04 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])

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

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

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

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

City Hall
Carter Lake Public Library
Peoples National Bank/American National Bank
Carter Lake Hardware

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

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

20.06 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])

20.07 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)

20.08 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])

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

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

20.10 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])

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

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

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

20.13 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 "CITY OF CARTER LAKE, IOWA."

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 21

CITY TREASURER

21.01 Appointment
21.02 Compensation

21.03 Duties of Treasurer

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

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

21.03 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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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 22

CITY ATTORNEY

22.01 Appointment and Compensation
22.02 Attorney for City
22.03 Power of Attorney
22.04 Ordinance Preparation

22.05 Review and Comment
22.06 Provide Legal Opinion
22.07 Attendance at Council Meetings
22.08 Prepare Documents

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

22.02 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])

22.03 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])

22.04 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])

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

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

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

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

22.07 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])

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

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

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 23

ELECTION PRECINCTS

23.01 ELECTION PRECINCTS ESTABLISHED. There are hereby established in the City of Carter Lake, Iowa, the election precincts set out in this section. The boundaries of the precincts are as follows:

1. Precinct 1 includes all that part of the City contained within the following described area:

Beginning at the intersection of Avenue P and Ninth Street; thence south along Ninth Street and then south along the line of Ninth Street extended to the Canadian National Railway tracks; thence west along the Canadian National Railway tracks to the corporate limits of Carter Lake; thence following along the corporate limits of Carter Lake, Iowa, generally northwesterly, north, northeasterly, easterly, southeasterly, then south to a point where the line of Avenue Q extended would intersect the Carter Lake corporate limits; thence west along that line and then along Avenue Q to 15th Street; thence south along 15th Street to Avenue P; thence west on Avenue P to the point of beginning.

2. Precinct 2 includes all that part of the City contained within the following described area:

Beginning at the intersection of Avenue P and Ninth Street; thence east on Avenue P to 15th Street, thence north on 15th Street to Avenue Q; thence east on Avenue Q and then the line of Avenue Q extended to the Carter Lake corporate limits; thence following the corporate limits of Carter Lake generally south, southwesterly, southeasterly, southwesterly, and then northwesterly to the west-most intersection of the Canadian National Railway tracks and the Carter Lake corporate limits; then east along the Canadian National Railway tracks to the line of Ninth Street extended; thence north along said line and then along Ninth Street to the point of beginning.

3. The precinct numbers and boundaries are displayed in Exhibit A attached to the ordinance codified in this chapter.

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**TITLE II – COMMUNITY PROTECTION
DIVISION 1 – ADMINISTRATION**

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TITLE II – COMMUNITY PROTECTION
DIVISION 1 - ADMINISTRATION

CHAPTER 25

POLICE DEPARTMENT

25.01 Department Established
25.02 Organization
25.03 Peace Officer Qualifications
25.04 Required Training
25.05 Compensation
25.06 Peace Officers Appointed

25.07 Police Chief: Duties
25.08 Departmental Rules
25.09 Summoning Aid
25.10 Taking Weapons
25.11 Contract Law Enforcement

25.01 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.

25.02 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.

25.03 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)

25.04 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)*

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

25.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall select, subject to the approval of Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

25.07 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.

25.08 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.

25.09 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*)

25.10 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*)

25.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 25.06, 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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TITLE II – COMMUNITY PROTECTION
DIVISION 1 - ADMINISTRATION

CHAPTER 26

RESERVE PEACE OFFICERS

26.01 Establishment of Force
26.02 Training
26.03 Status of Reserve Officers
26.04 Carrying Weapons
26.05 Supplementary Capacity
26.06 Supervision of Officers

26.07 No Reduction of Regular Force
26.08 Compensation
26.09 Benefits When Injured
26.10 Liability and False Arrest Insurance
26.11 No Participation in Pension Fund or Retirement System

26.01 ESTABLISHMENT OF FORCE. A force of reserve peace officers is hereby established. The force shall consist of not more than nine (9) members. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

26.02 TRAINING. Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the Iowa Law Enforcement Academy. All standards and training required under Chapter 80D of the *Code of Iowa* constitute the minimum standards for reserve peace officers. Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

26.03 STATUS OF RESERVE OFFICERS. Reserve peace officers shall serve as peace officers on the orders and at the discretion of the Police Chief. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officer.

26.04 CARRYING WEAPONS. A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.

26.05 SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all the requirements of regular peace officers.

26.06 SUPERVISION OF OFFICERS. Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil

process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

26.07 NO REDUCTION OF REGULAR FORCE. There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

26.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of \$1.00 per year. The Council may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

26.09 BENEFITS WHEN INJURED. Hospital and medical assistance and benefits, as provided in Chapter 85 of the *Code of Iowa*, shall be provided by the Council to members of the reserve force who sustain injury in the course of performing official duties.

26.10 LIABILITY AND FALSE ARREST INSURANCE. Liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

26.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM. This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State and of which regular peace officers may become members.

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TITLE II – COMMUNITY PROTECTION
DIVISION 1 - ADMINISTRATION

CHAPTER 30

FIRE DEPARTMENT

30.01 Establishment and Purpose
30.02 Organization
30.03 Approved by Council
30.04 Training
30.05 Election of Officers
30.06 Fire Chief: Duties
30.07 Obedience to Fire Chief
30.08 Constitution

30.09 Accidental Injury Insurance
30.10 Liability Insurance
30.11 Calls Outside City
30.12 Mutual Aid
30.13 Authority to Cite Violations
30.14 Emergency Ambulance Service
**30.15 Billing for Fire, Hazardous Spills, Rescue
Services, and False Fire Alarms**

30.01 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)

30.02 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])

30.03 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.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

30.08 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.

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

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

30.10 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)

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

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

30.12 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])

30.13 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)

30.14 EMERGENCY AMBULANCE SERVICE. The department is authorized to provide emergency ambulance or rescue services, and the accidental injury and liability insurance provided for herein shall include such operation.

30.15 BILLING FOR FIRE, HAZARDOUS SPILLS, RESCUE SERVICES, AND FALSE FIRE ALARMS.

1. The Mayor, on behalf of the Fire Department, may enter into contracts/agreements with others to do the billing for fire, hazardous spills and rescue services.

2. No individual taxpayer living within the City shall be billed any amount in excess of what their insurance policy may pay.

3. Rates that may be charged by the Fire Department shall be established by resolution of the Council, reviewed periodically, and may be adjusted by resolution of the Council.

4. All income from billings shall be deposited into the general fund of the City to be used for the Fire Department for the replacement of equipment, supplies or other operational costs.

5. Any individual or entity making a false fire alarm within the City shall be subject to the following service fees:

One per calendar year.....	no charge
Two per calendar year.....	\$100.00
Three or more per calendar year.....	\$250.00

For purposes of this subsection, a false fire alarm shall include any alarm that results in a service call by the Carter Lake Fire Department in situations that would not otherwise have required the Fire Department to respond. A violation of this section shall be punishable as a municipal infraction subject to the procedures and penalties set forth in Chapter 8 of this Code of Ordinances.

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TITLE II – COMMUNITY PROTECTION
DIVISION 1 - ADMINISTRATION

CHAPTER 31

FIRE CODE

31.01 Code Adopted

31.02 Fire Chief to Administer

31.01 CODE ADOPTED. The 2006 edition of the *International Fire Code*, as published by the International Code Council, is adopted by reference as the Fire Code of the City.

31.02 FIRE CHIEF TO ADMINISTER. The Chief of the Fire Department of the City shall be the administrator of the Fire Code and enforce its regulations within the City.

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TITLE II – COMMUNITY PROTECTION
DIVISION 1 - ADMINISTRATION

CHAPTER 32

HAZARDOUS SUBSTANCE SPILLS

32.01 Purpose
32.02 Definitions
32.03 Cleanup Required
32.04 Liability for Cleanup Costs

32.05 Notifications
32.06 Police Authority
32.07 Liability

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

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

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

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

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

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

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

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

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

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

32.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

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

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

32.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief, who shall then notify the Department of Natural Resources.

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

32.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 32.02[4].

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TITLE II – COMMUNITY PROTECTION
DIVISION 1 - ADMINISTRATION

CHAPTER 35

CARTER LAKE PREVENTION COALITION

35.01 Coalition Established
35.02 Organization
35.03 Powers and Duties
35.04 Annual Budget

35.05 Reports
35.06 No Taxing Powers
35.07 Contracts
35.08 Council Approval

35.01 COALITION ESTABLISHED. There is hereby established the Carter Lake Prevention Coalition, which is created to advise the Council concerning the operation and implementation of any grants and other funds (e.g., municipal budget) affecting the delivery of projects, programs, events and activities concerning the Carter Lake Prevention Coalition programs established by the Coalition and approved by the Council.

35.02 ORGANIZATION. The Coalition shall consist of up to fifteen but not less than eleven members, of which a majority shall be residents of the City, appointed by the Mayor with the approval of the Council for overlapping terms of three years. Members shall serve without compensation, but may receive reimbursement for their actual expenses. Vacancies shall be approved in the same manner as the original appointments.

35.03 POWERS AND DUTIES. The Coalition shall have and exercise the following powers and duties:

1. Meet and elect from its members a Chairperson, a Vice Chairperson and any such officer as it deems necessary. The City shall act as fiscal agent for the operation of the Coalition.
2. Supervise and implement the policies of the Coalition relative to the implementation of Resource Center projects, programs, events and activities developed by the Coalition and approved by the City.
3. Employ persons, only with the consent of the Council, as may be necessary for the proper management of the program and to fix said compensation subject to the approval of the Council.
4. Remove, subject to the approval of the Council, the employees for crimes, incompetence, inattention to duties, or other violations of any rules of the City.
5. Make and adopt, amend, modify or repeal rules and regulations or bylaws, subject to the approval of the Council, not inconsistent with ordinances and the law, for the care, use, management and operation of the program.
6. Keep a record of all of its proceedings.
7. Take actions jointly with other public or private agencies as provided in Section 28E of the *Code of Iowa*, subject to the approval of the Council.

35.04 ANNUAL BUDGET. The Council will adopt an annual budget for the Coalition, which shall be prepared by the Coalition and incorporated into the annual City budget.

35.05 REPORTS. The Coalition shall make written reports to the Council of its activities from time to time, but no less than on a quarterly basis. Its revenues and expenditures shall be reported monthly to the City Clerk/Treasurer, and a copy shall be provided to each member of the Coalition and to each member of the Council.

35.06 NO TAXING POWER. The Coalition may not pledge the credit or taxing power of the City.

35.07 CONTRACTS. No contract or written agreement in excess of \$5,000 may be entered into by the Prevention Coalition without the prior review and approval of the Council.

35.08 COUNCIL APPROVAL. Council approval of any action of the Coalition shall require a majority vote of the Council.

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**TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT**

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 45

PUBLIC PEACE

45.01 Assault
45.02 Harassment
45.03 Unlawful Assembly
45.04 Failure to Disperse

45.05 Disorderly Conduct
45.06 – 45.08 (Reserved)
45.09 Terrorism (Deleted)

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, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. “Deface” means to intentionally mar the external appearance.
- B. “Defile” means to intentionally make physically unclean.
- C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
- D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
- E. “Show disrespect” means to deface, defile, mutilate, or trample.
- F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

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

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

8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
- B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
- C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

45.06 – 45.08 *(Reserved)*

45.09 TERRORISM. *(Deleted)*

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 47

MINORS

47.01 Curfew

47.02 Cigarettes and Tobacco

47.03 Contributing to Delinquency

47.01 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. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. “Minor” means any unemancipated person under the age of 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 law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - 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.

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 5:00 a.m. of the following day.
3. Exceptions. The following are exceptions to the curfew:
 - A. The minor is accompanied by a parent or legal guardian.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor’s place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor’s presence falls within one of the above exceptions.

5. Enforcement Procedures.
 - A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.
 - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
 - C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.
 - D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.
6. Penalties.
 - A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.
 - B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.
 - C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

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

47.02 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. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* and lawfully offers for sale or sells cigarettes or tobacco products.

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

47.03 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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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 48

PUBLIC HEALTH AND SAFETY

48.01 Distributing Dangerous Substances	48.12 Reckless Use of Fire or Explosives (<i>Deleted</i>)
48.02 – 48.03 (<i>Reserved</i>)	48.13 (<i>Reserved</i>)
48.04 Fireworks	48.14 Antenna and Radio Wires
48.05 False Reports to or Communications with Public Safety Entities	48.15 – 48.18 (<i>Reserved</i>)
48.06 – 48.07 (<i>Reserved</i>)	48.19 Discharging Weapons
48.08 Interference with Official Acts	48.20 Throwing and Shooting
48.09 Refusing to Assist Officer	48.21 Possession of Weapons (<i>Deleted</i>)
48.10 Harassment of Public Officers and Employees	48.22 Storage and Use of Explosives (<i>Deleted</i>)
48.11 Abandoned or Unattended Refrigerators	48.23 Urinating and Defecating
	48.24 Providing False Identification Information

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

(Code of Iowa, Sec. 727.1)

48.02 – 48.03 (*Reserved*)

48.04 FIREWORKS. The sale, use or exploding of fireworks within the City is subject to the following:

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

(Code of Iowa, Sec. 727.2)

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

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

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

48.05 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.

48.06 – 48.07 *(Reserved)*

48.08 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or firefighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

48.09 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)

48.10 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)

48.11 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)

48.12 RECKLESS USE OF FIRE OR EXPLOSIVES. *(Deleted)*

48.13 *(Reserved)*

48.14 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])

48.15 – 48.18 *(Reserved)*

48.19 DISCHARGING WEAPONS.

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

48.20 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, BB guns or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building, without written consent of the Council.

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

48.21 POSSESSION OF WEAPONS. *(Deleted)*

48.22 STORAGE AND USE OF EXPLOSIVES. *(Deleted)*

48.23 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

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

(Code of Iowa, Sec. 719.1A)

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 49

PUBLIC PROPERTY

49.01 Defacing Proclamations or Notices
49.02 Unauthorized Entry

49.03 – 49.09 *(Reserved)*
49.10 Criminal Mischief

49.01 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)

49.02 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.

49.03 – 49.09 *(Reserved)*

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

(Code of Iowa, Sec. 716.1)

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 50

PRIVATE PROPERTY

50.01 Trespassing
50.02 Fraud
50.03 (Reserved)

50.04 Theft
50.05 Theft of Utility Services (Deleted)

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

(Code of Iowa Sec. 716.7 and 716.8)

1. **Entering 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])

50.02 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)

50.03 *(Reserved)*

50.04 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)

50.05 THEFT OF UTILITY SERVICES. *(Deleted)*

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 51

DRUG PARAPHERNALIA

51.01 Purpose

51.02 Controlled Substance Defined

51.03 Drug Paraphernalia Defined

51.04 Determining Factors

51.05 Possession of Drug Paraphernalia

51.06 Manufacture, Delivery or Offering For Sale

51.07 Nuisance (*Deleted*)

51.01 PURPOSE. The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

51.02 CONTROLLED SUBSTANCE DEFINED. The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*, as it now exists or is hereafter amended.

51.03 DRUG PARAPHERNALIA DEFINED. The term “drug paraphernalia” as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators; Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - B. Water pipes;
 - C. Carburetion tubes and devices;
 - D. Smoking and carburetion masks;
 - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - F. Miniature cocaine spoons and cocaine vials;
 - G. Chamber pipes;
 - H. Carburetor pipes;
 - I. Electric pipes;
 - J. Air driven pipes;
 - K. Chillums;
 - L. Bongs;
 - M. Ice pipes or chillers.

51.04 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.

3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.
4. Proximity To Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

51.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.

51.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

51.07 NUISANCE. *(Deleted)*

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: PUBLIC OFFENSES

CHAPTER 52

AGGRESSIVE SOLICITATION

52.01 Definitions

52.02 Illegal Solicitation

52.03 Citation

52.04 Violation

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

1. “Aggressive manner” includes all of the following:
 - A. Touching or causing physical contact with the person solicited.
 - B. Blocking or attempting to block the passage of the person solicited.
 - C. Continuing to solicit after a refusal by the person solicited.
 - D. Following behind, ahead of, or alongside a person who walks away from the solicitor after being solicited.
 - E. Using obscene, profane, or abusive language or gestures toward the person solicited.
 - F. Using a sign to solicit, including a sign that includes obscene, profane, or abusive language.
2. “Automated Teller Machine” or “ATM” means a device linked to a financial institution’s account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, and balance inquiries.
3. “Solicit” means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor’s purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word or by other means of communication.

52.02 ILLEGAL SOLICITATION. It is unlawful for any person:

1. To solicit in an aggressive manner or in a manner that will impair orderly movement of pedestrian or vehicular traffic or otherwise create unreasonable health and safety concerns.
2. To solicit within 10 feet of any building.
3. To solicit within 15 feet of a crosswalk.
4. To solicit within 20 feet of an automated teller machine.
5. To solicit within 10 feet of a mobile vendor.
6. To solicit within 15 feet of another solicitor.

52.03 CITATION. Except for soliciting in an aggressive manner, no person shall be cited under Section 52.02 unless the person engages in conduct prohibited by said subsection after having been notified by a peace officer that the conduct violates the City ordinance.

52.04 VIOLATION. Any violation of this chapter shall be punishable as a simple misdemeanor.

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**TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: NUISANCES**

CHAPTER 55

NUISANCE ABATEMENT PROCEDURE

55.01 Definition of Nuisance	55.12 Right of Entry
55.02 Nuisances Enumerated	55.13 Foreclosed/Rental Property
55.03 Nuisances Prohibited	55.14 Nuisance Abatement
55.04 Criminal Penalty	55.15 Notice to Abate: Contents
55.05 Municipal Infraction Penalty	55.16 Method of Service
55.06 Additional Civil Relief	55.17 Request for Hearing
55.07 Abatement of Nuisance	55.18 Abatement by City
55.08 Administrative Penalties	55.19 Collection of Costs
55.09 Enforcement Responsibility	55.20 Installment Payment of Cost of Abatement
55.10 Emergency Defined	55.21 Failure to Abate
55.11 Emergency Actions Authorized	

55.01 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)

55.02 NUISANCES ENUMERATED. Nuisances include, but are not limited to:

1. 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. Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. 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. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. Houses of ill fame, kept for the purpose of prostitution and lewdness; illegal 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(5) 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.
7. The manufacture, cultivation, growth, production, processing, sale, distribution, storage or use or possession for any unlawful manufacture, sale,

distribution or use of a controlled substance as defined in Section 124.101 of the *Code of Iowa*, imitation controlled substances, as defined in Section 124A.2 of the *Code of Iowa*, and drug paraphernalia as defined in Section 51.03 of this Code of Ordinances.

8. The maintenance, use, rental or lease or allowing or permitting the maintenance, use, rental or lease of any real property or sub-unit thereof where people are allowed to congregate, gather or loiter in such a manner as to disturb the peace of other persons lawfully on the property itself or lawfully in the vicinity of the property.

9. The possession, sale or receipt of stolen property.

10. The sexual exploitation of a minor, as prohibited by Section 728.12 of the *Code of Iowa*.

11. A violation of any provision of the Iowa Alcoholic Beverage Control Act, Chapter 123 of the *Code of Iowa* or Chapters 145 and 146 of this Code of Ordinances.

12. A violation of the *Code of Iowa* Section 135.37, Iowa Department of Public Health rules and regulations governing tattooing adopted as provided by *Code of Iowa* Section 135.37 or any provisions of this Code of Ordinances regarding tattoo parlors.

13. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion of 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.

14. The intentional planting of cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

15. Any object or structure hereafter erected within 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.

16. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, boxes and paper, by dealers in such articles within the City limits, unless in a building of fireproof construction.

17. The emission of dense smoke, noxious fumes or fly ash in the City so as to constitute a health, safety or fire hazard.

18. The dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

19. An adult entertainment business operated, conducted or maintained contrary to the provisions of this Code of Ordinances.

20. The storage of any junk vehicles, machinery, trailers or parts thereof on private property within the corporate limits of the City, in violation of Chapter 143 of this Code of Ordinances.

21. The storage of solid waste on private property for more than three days in violation of Chapter 105 of this Code of Ordinances.

22. All weeds, vines, bushes, volunteer trees less than three inches in diameter, grass and other growths which exceed a height of nine (9) inches and all noxious weeds of any dimension as defined by the *Code of Iowa*, growing on lots and parcels of ground within the corporate limits of the City.

23. Materials constructed, stored or placed on the public right-of-way for more than 24 hours, which have not been previously approved as landscaping materials or otherwise authorized by the City for said location.
24. All unsafe buildings, structures or appendages in violation of Chapter 130 of this Code of Ordinances.
25. Maintenance of any dilapidated building of whatever kind which is unused by the owner or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm soil erosion or rodent or insect infestation or which becomes a place frequented by trespassers and transients seeking a temporary refuge.
26. Maintenance of any partially or otherwise incomplete structures or abandoned property including, but not limited to fences, parking garages, commercial and residential buildings.
27. Maintenance or use of any building or structure which substantially annoys, injures or endangers the comfort, health, repose or safety of the public by reason of vandalism, inadequate maintenance, abandonment or otherwise, including, but not limited to:
- A. Vacant, inadequately maintained or boarded-up buildings or structures located within 1,000 feet of a residentially zoned district which do not show evidence of current construction or remodeling activity;
 - B. Vacant buildings or structures, regardless of proximity to a residentially zoned district, which are not secure and to which entry may be made through opened or unlocked doors, windows or other openings;
 - C. Vacant buildings or structures which are likely to attract minors and which constitute a danger to the health, safety or well-being of said minors.
28. Keeping or maintaining any stockyard for the purpose of feeding or fattening any cattle, swine, sheep or other animals within the City to the annoyance and discomfort of others.
29. Permitting or suffering to continue a loud, raucous or disagreeable noise upon any premises or emanating from a motor vehicle owned by the person or in the person's possession that causes a disturbance to the general public. A loud raucous or disagreeable noise is a noise that any reasonable person would objectively find disturbing considering the time, place and manner in which the noise is being made. A motor vehicle is any vehicle which is self-propelled. The general public is one person or multiple persons either located in a public place or right-of-way or located off the premises or outside the motor vehicle that is the subject of the violation of this chapter. The general public includes police officers. The following circumstances are considered per se violations as being loud, raucous and disagreeable noises causing disturbance to the general public and a violation of this chapter:
- A. Noise emanating from a motor vehicle that can be heard from a distance of 100 feet or more;
 - B. Modification of the exhaust system of a motor vehicle (including, but not limited to muffler cutouts, bypasses or other non-emission compliant devices which increase sound emissions) such that the noise emanating from the motor vehicle is above the level of noise emanating by the vehicle as manufactured;

C. Noise emanating from a place of business or dwelling that could be heard from a distance of 100 feet or more as measured from any point beginning on the place of business or dwelling property line.

The above circumstances are intended to provide objective guidelines for some of the more common noise violations occurring in the City and in no way meant to limit the scope of the acts that may be prohibited under this section.

30. All other nuisances as specifically defined by the *Code of Iowa* or in any other section of this Code of Ordinances.

55.03 NUISANCES PROHIBITED. Any person, keeping, allowing or maintaining a nuisance, as defined herein, is guilty of a misdemeanor. At the discretion of the City Attorney, any violation of this chapter may be pursued as a municipal infraction according to the terms of Chapter 8 of this Code of Ordinances in lieu of criminal prosecution. Each calendar day a violation is allowed to continue shall constitute a separate and distinct violation.

55.04 CRIMINAL PENALTY. Any person found guilty of a criminal violation of this chapter shall be subject to the penalties provided in Section 1.14 of this Code of Ordinances.

55.05 MUNICIPAL INFRACTION PENALTY. Any person found guilty of a civil violation of this chapter shall be subject to the penalties provided in Section 8.03 of this Code of Ordinances.

55.06 ADDITIONAL CIVIL RELIEF. For a civil violation in addition to the penalty provided in Section 8.03, a court of competent jurisdiction may:

1. Order such person to remove, correct, cease and desist, abate and/or otherwise come into compliance with this Code of Ordinances.
2. Restrain and enjoin such person from operating, conducting or maintaining a business contrary to this Code of Ordinances.
3. Order such person, to repair, rehabilitate, demolish or remove the building, structure or appendage.
4. Enter any order with specific terms deemed just and equitable by the court intended to achieve any of the purposes set forth in the subsections above.
5. Grant the City authority to achieve any of the purposes set forth in the subsections above with the costs and administrative fees associated therewith being taxed to such person for collection the same manner as taxes and to be a lien against real property as provided by the *Code of Iowa*.

55.07 ABATEMENT OF NUISANCE. Any person keeping, allowing or maintaining a nuisance shall have the duty to immediately cease and desist, correct and abate the nuisance in the manner provided for in this chapter or State law. If a nuisance is deemed to be an emergency by the Director of the Public Health Department, Police Chief, Director of Parks and Recreation, Building Official, Fire Marshal, Fire Chief or the Mayor, the City may perform any action required by this chapter without prior notice, citation or arrest as provided in this chapter and assess the actual costs and administrative fees.

55.08 ADMINISTRATIVE PENALTIES.

1. In addition to or in lieu of criminal prosecution or municipal infraction proceeding, any body, department, agency, or official of the City which has issued a permit, license, certificate, registration, or other authorization to a person keeping, allowing, or maintaining a nuisance, as defined herein, may administratively suspend or revoke said permit, license, certificate, registration, or other authorization.
2. In the matter of any permit, license, certificate, registration, or other authorization for which there is a specific suspension or revocation process set forth in this Code of Ordinances, then the suspension or revocation shall follow that specified process, including the specified appeals process.
3. In the matter of all permits, licenses, certificates, registrations, or other authorizations for which there is no specified process for suspension or revocation set forth elsewhere in this Code of Ordinances, the suspension or revocation shall be made by the same authority issuing the permit, license, certificate, registration, or other authorization. The appeal to any said suspension or revocation shall be to the Council by filing a written notice of appeal with the Clerk within ten business days of service of notice on the holder of said permit, license, certificate, registration, or other authorization, or said person's authorized agent. Service of the notice of suspension or revocation may be by any means provided by State law for service of original notice in a civil lawsuit or by posting in a conspicuous place on the subject real property. Filing an appeal under this chapter does not automatically stay the order of suspension or revocation. Upon the filing of a written appeal, the aggrieved party may, in writing, request the Mayor to stay the denial, suspension or revocation. The Mayor may stay the denial, suspension or revocation of the permit, license, certificate, registration, or other authorization while the appeal is pending, by filing a written notice of stay with the Clerk and sending copies thereof to the aggrieved party and the issuing authority.

55.09 ENFORCEMENT RESPONSIBILITY. The criminal and civil provisions of this chapter may be enforced by any peace officer located within the City limits. The civil provisions of this chapter may also be enforced as provided in Chapter 8 of this Code of Ordinances.

55.10 EMERGENCY DEFINED. As used in this chapter, "emergency" means any unforeseen or unexpected occurrence or circumstance or a combination of such occurrences or circumstances or the resulting state therefrom that calls for immediate action to protect the health, safety, or life of individuals or property from substantial damage or destruction.

55.11 EMERGENCY ACTIONS AUTHORIZED. If the appropriate authority declares an emergency, the City is authorized and empowered to order and/or undertake, without notice, and without any waiting period, or right to appeal by the owner, occupant or other interested party as may be required by this or any other provision of this Code of Ordinances.

1. Any action that may be taken to abate the nuisance as provided by this chapter;
2. Occupants to immediately vacate the premises;
3. The premises not be occupied by anyone;
4. Required repairs/alterations be completed by deadlines established by the authority declaring the emergency;

5. Removal of the emergency condition;
6. Securing of the premises by fencing, boarding, or any other appropriate method;
7. Demolition of the property in whole or part;
8. Any necessary work to render the emergency temporarily safe and/or cause such other actions as deemed appropriate to eliminate such emergency condition or situation;
9. The temporary closing or vacating of buildings, structures, houses, sidewalks, streets, public ways, public places, and other property that are adjacent to or in dangerous proximity to the emergency condition and prohibit the same from being utilized or occupied for the period of time necessary to ensure the safety of the affected area; and
10. To employ people or contract with others to provide the necessary labor, equipment and/or materials to perform the required emergency work as expeditiously as possible without following the requirements regarding public bidding for contracts.

55.12 RIGHT OF ENTRY. In a declared emergency, it is unlawful for any person to enter such building or structure for any purpose, except with the knowledge and authorization of the authority declaring the emergency. A violation of this section is a misdemeanor and, upon conviction, shall be subject to the penalties provided in Section 1.14. The provisions of Chapter 131 (Building Code) are also enforceable in addition to the provisions of this section.

55.13 FORECLOSED/RENTAL PROPERTY. Any real property which is subject to foreclosure, forcible entry and detainer, eviction, or in which possession is otherwise transferred through legal process or Court action, shall be in full compliance with this Code of Ordinances within twenty-four hours of the transfer of possession. Failure to comply with the provisions of this section shall be deemed an emergency. The City is authorized to proceed in a manner consistent with the emergency provisions set forth in this chapter. Any person, including the property owner and, if applicable, a landlord, violating this section is guilty of a misdemeanor. At the discretion of the City Attorney, any violation of this chapter may be pursued as a municipal infraction according to the terms of Chapter 8 of this Code of Ordinances in lieu of criminal prosecution. Each calendar day a violation is allowed to continue shall constitute a separate and distinct violation.

55.14 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])

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

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

[†] **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.

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.

55.16 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])

55.17 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.

55.18 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])

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

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

55.20 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

55.21 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.

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic
60.05 Traffic Accidents: Reports

60.06 Peace Officer's Authority
60.07 Parades Regulated
60.08 – 60.11 (Reserved)
60.12 Obedience to Peace Officers

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Carter Lake Traffic Code.”

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

60.07 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 Council. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be

deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

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

60.08 – 60.11 *(Reserved)*

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

(Code of Iowa, Sec. 321.229)

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Mufflers (*Deleted*)
62.06 Quiet Zones
62.07 School Buses (*Deleted*)
62.08 Tampering with Vehicle

62.09 Open Containers in Motor Vehicles
62.10 Eluding or Attempting to Elude Law
Enforcement (*Deleted*)
62.11 Reckless Driving
62.12 Obstructing View at Intersections
62.13 Excessive Acceleration (*Deleted*)
62.14 Careless Driving
62.15 Milling

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

1. Display of Registration and License to Drive: 321.17, 321.32, 321.37, 321.38, 321.57, 321.67, 321.78, 321.79, 321.91, 321.98, 321.99, 321.104, 321.115, 321.174, 321.174A, 321.180, 321.180B, 321.193, 321.194, 321.208A, 321.216, 321.216B, 321.216C and 321.218 through 321.224.
2. All Terrain Vehicles, Golf Carts, and Bicycles to Obey Traffic Regulations, Radar Jamming Devices, Road Workers: 321.232 through 321.234A, 235A and 321.247.
3. Traffic Signs, Signals, and Markings: 321.259 and 321.260.
4. Accidents and Accident Reporting: 321.262 through 321.266.
5. Operation of Motorcycles and Motorized Bicycles: 321.275.
6. Drag Racing; Speed; Open Containers; Control of Vehicle: 321.276, 321.277, 321.277A, 321.278, 321.281, 321.284, 321.284A, 321.288, 321.295, 321.333, 321.382 and 321.383.
7. Driving on Right, Meeting, Overtaking, Following, or Towing: 321.297 through 321.299 and 321.302 through 321.310.
8. Turning and Starting, Signals on Turning and Stopping: 321.312 through 321.318.
9. Right-of-Way: 321.319 through 321.324A.
10. Pedestrian Rights and Duties and Safety Zones: 321.329, 321.330, 321.332, 321.333, and 321.340.
11. Railroad Crossings: 321.341 through 321.344 and 321.344B.
12. Stopping, Standing, Parking: 321.354 and 321.359.

13. Unattended Vehicle, Obstructing Driver's View, Crossing Median, Following Fire Apparatus, or Crossing Fire Hose, and Putting Glass, Etc., on Streets: 321.362 through 321.365 and 321.367 through 321.371.

14. School Buses: 321.372.

15. Lighting Equipment Required and Time of Use: 321.384 through 321.390, 321.392 through 321.395, 321.398, 321.402 through 321.405, 321.408, 321.409, 321.415, 321.417 through 321.423. In accordance with authorization granted by Section 321.395, *Code of Iowa*, motor vehicles parked upon any street where permitted by this chapter need not display required lights where there is sufficient light emitted from City street lights to reveal any person or object within a distance of five hundred (500) feet upon such street.

16. Brakes, Horns, Sirens, Mufflers, Wipers, Mirrors, Tires, Flares, Windows, Safety Belts, and Special Markings for Transporting Explosives: 321.430 through 321.434; 321.436 through 321.442; 321.444 through 321.446, 321.449 and 321.450.

17. Size, Weight, and Load: 321.454 through 321.458, 321.460 through 321.463, 321.465 and 321.466.

18. Unsafe Vehicles: 321.381 and 321.381A.

62.02 PLAY STREETS DESIGNATED. The Police Chief shall have authority to declare any street or part thereof a play street and cause to be placed appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

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

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

62.05 MUFFLERS. *(Deleted)*

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

62.07 SCHOOL BUSES. *(Deleted)*

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

62.09 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.

62.10 ELUDING OR ATTEMPTING TO ELUDE LAW ENFORCEMENT. *(Deleted)*

62.11 RECKLESS DRIVING. No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

(Code of Iowa, Sec. 321.277)

62.12 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 55 of this Code of Ordinances.

62.13 EXCESSIVE ACCELERATION. *(Deleted)*

62.14 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

(Code of Iowa, Sec. 321.277A)

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

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

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 63

SPEED REGULATIONS

63.01 Speeding

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 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. Except as provided in subsection 2 of this section, on any residential district street within the City;
 - B. On any school district street within the City during the school year.

2. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

- A. On Locust Street from the east City limits to west City limits;
- B. On Avenue H from east City limits to west City limits;
- C. On Ninth Street from Avenue H to the lake;
- D. On Thirteenth Street from Locust Street to Avenue Q;
- E. On Avenue Q from Ninth Street to Thirteenth Street.

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

(Code of Iowa, Sec. 321.294)

TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns

64.03 Left Turn for Parking
64.04 Right Turn Only

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

1. On Locust Street at, in or east of the intersection with Thirteenth Street.

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

64.04 RIGHT TURN ONLY. Vehicular traffic entering onto Locust Street at the stop light on the south side of Locust Street shall turn right only between the hours of 9:00 p.m. to 6:00 a.m. on every day of the week.

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Three-Way Stop Intersections
65.04 Four-Way Stop Intersections
65.05 Yield Required

65.06 School Stops
65.07 Stop Before Crossing Sidewalk
65.08 Stop When Traffic Is Obstructed
65.09 Yield to Pedestrians in Crosswalks
65.10 Official Traffic Controls

65.01 THROUGH STREETS – STOP. Every driver of a vehicle shall stop, unless a yield is permitted by this chapter, before entering an intersection with the following designated through streets.

(Code of Iowa, Sec. 321.345)

1. Iowa Highway 165 for its entire length within the City.
2. Locust Street, from the west City limits to the east City limits.
3. Thirteenth Street, from Locust Street to Avenue Q.

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

(Code of Iowa, Sec. 321.345)

1. Dorene Boulevard. Vehicles traveling north on Dorene Boulevard shall stop at Willow Drive.
2. Avenue H. Vehicles traveling on Avenue H shall stop at Ninth Street.
3. Avenue J. Vehicles traveling on Avenue J shall stop at Ninth Street.
4. Avenue K. Vehicles traveling on Avenue K shall stop at Ninth Street.
5. Wood Avenue. Vehicles traveling east on Wood Avenue shall stop at Ninth Street.
6. Steele Avenue. Vehicles traveling east on Steele Avenue shall stop at Ninth Street.
7. Hiatt Street. Vehicles traveling west on Hiatt Street shall stop at Ninth Street.
8. Silver Lane. Vehicles traveling west on Silver Lane shall stop at Ninth Street.
9. Avenue O. Vehicles traveling west on Avenue O shall stop at Ninth Street.
10. Cachelin Drive. Vehicles traveling west on Cachelin Drive shall stop at Ninth Street.
11. Avenue P. Vehicles traveling on Avenue P shall stop at Ninth Street.
12. Seventh Street. Vehicles traveling south on Seventh Street shall stop at Steele Avenue.

13. Avenue K. Vehicles traveling east on Avenue K shall stop at Fifth Street.
14. Fifth Street. Vehicles traveling north on Fifth Street shall stop at Avenue K.
15. Janbrook Boulevard. Vehicles traveling east on Janbrook Boulevard shall stop at Surfwood.
16. Mayper Drive. Vehicles traveling on Mayper Drive shall stop at Eleventh Street.
17. Dorene Boulevard. Vehicles traveling on Dorene Boulevard shall stop at Eleventh Street.
18. Janbrook Boulevard. Vehicles traveling on Janbrook Boulevard shall stop at Eleventh Street.
19. Lindwood Drive. Vehicles traveling on Lindwood Drive shall stop at Eleventh Street.
20. Eleventh Street. Vehicles traveling south on Eleventh Street shall stop at Avenue K.
21. Eleventh Street. Vehicles traveling north on Eleventh Street shall stop at Willow Drive.
22. Carter Lake Club. Vehicles exiting Carter Lake Club shall stop at Carolina Drive, Avenue Q and Ninth Street.
23. Mabrey Lane. Vehicles traveling north on Mabrey Lane shall stop at Avenue K.
24. Murray Avenue. Vehicles traveling west on Murray Avenue shall stop at Fifteenth Street.
25. Stella Avenue. Vehicles traveling west on Stella Avenue shall stop at Fifteenth Street.
26. Fourteenth Street. Vehicles traveling south on Fourteenth Street shall stop at Avenue Q.
27. Shoal Point. Vehicles traveling south on Shoal Point shall stop at Avenue Q.
28. Shoal Circle. Vehicles traveling south on Shoal Circle shall stop at Seventeenth Street.
29. Shoal Drive. Vehicles traveling east on Shoal Drive shall stop at Fourteenth Street.
30. Shoal Drive. Vehicles traveling west on Shoal Drive shall stop at Carolina Drive.
31. Avenue Q. Vehicles traveling on Avenue Q shall stop at Shoal Point.
32. Stella Avenue. Vehicles traveling east on Stella Avenue shall stop at Seventeenth Street.
33. Murray Avenue. Vehicles traveling east on Murray Avenue shall stop at Seventeenth Street.
34. Cachelin Drive. Vehicles traveling east on Cachelin Drive shall stop at Seventeenth Street.

35. Avenue O. Vehicles traveling east on Avenue O shall stop at Seventeenth Street.
36. Silver Lane. Vehicles traveling east on Silver Lane shall stop at Seventeenth Street.
37. Hiatt Street. Vehicles traveling east on Hiatt Street shall stop at Seventeenth Street.
38. Avenue N. Vehicles traveling east on Avenue N shall stop at Seventeenth Street.
39. Willow Drive. Vehicles traveling on Willow Drive shall stop at Dorene Boulevard.
40. Dorene Boulevard. Vehicles traveling south on Dorene Boulevard shall stop at Holiday Drive.
41. Dorene Boulevard. Vehicles traveling on Dorene Boulevard shall stop at Surfwood Drive.
42. Lindwood Drive. Vehicles traveling south on Lindwood Drive shall stop at Avenue K.
43. Coronado Circle. Vehicles traveling east on Coronado Circle shall stop at Ninth Street.
44. Avenue Q. Vehicles traveling east and west on Avenue Q shall stop at Seventh Street.

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

1. Fifteenth Street and Redick Boulevard. Vehicles approaching the intersection of Fifteenth Street and Redick Boulevard from the east, west and north shall stop before entering such intersection.
2. Seventeenth Street and Redick Boulevard. Vehicles approaching the intersection of Seventeenth Street and Redick Boulevard from the west, north and south shall stop before entering such intersection.
3. Ninth Street and Willow Drive. Vehicles approaching the intersection of Ninth Street and Willow Drive from the east, north, and south shall stop before entering the intersection.
4. Eleventh Street and Redick Boulevard. Vehicles approaching the intersection of Eleventh Street and Redick Boulevard from the north, east, and west shall stop before entering the intersection.
5. Eleventh Street and Willow Drive. Vehicles approaching the intersection of Eleventh Street and Willow Drive from the south, east, and west shall stop before entering the intersection.

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Fifth Street and Avenue H.

2. Intersection of Ninth Street and Avenue H.
3. Intersection of Fifteenth Street and Walker Street.
4. Intersection of Avenue N and Fifteenth Street.
5. Intersection of Hiatt Street and Fifteenth Street.
6. Intersection of Silver Lane and Fifteenth Street.
7. Intersection of Cachelin Drive and Fifteenth Street.
8. Intersection of Avenue P and Fifteenth Street.
9. Intersection of Ninth Street and Redick Boulevard.
10. Intersection of Avenue Q and Ninth Street.
11. Intersection of Avenue Q and Thirteenth Street.
12. Intersection of Thirteenth Street and Willow Drive.
13. Intersection of Locust Street and Fifth Street.
14. Intersection of Locust Street and Ninth Street.

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

(Code of Iowa, Sec. 321.345)

- NONE -

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

(Code of Iowa, Sec. 321.249)

1. Intersection of Redick Boulevard and Thirteenth Street;
2. Intersection of Redick Boulevard and Eleventh Street.

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

(Code of Iowa, Sec. 321.353)

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

65.09 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down

or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

65.10 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

1. Intersection of Redick Boulevard and Thirteenth Street.
2. Intersection of Locust Street and Thirteenth Street.

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. Locust Street. Six-ton limit from east City limits to west City limits.

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

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

(Code of Iowa, Sec. 321.473)

- A. Avenue H from east City limits to west City limits.
- B. Any State or Federal highway.

2. Deliveries Off Truck Route. Any motor vehicle weighing three (3) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route. In the event repeated trips

are necessary for said purpose, to and from a location on any of the City's public streets and places other than a legally designated truck route, it shall be necessary that written application to do so shall be made on forms provided by the maintenance department, by the owner and/or operators of the vehicles to be used in such operation, to the Council or its authorized representative, prior to commencing such activities, setting forth in detail the route proposed to be traveled, and permission in writing to do so from the Council shall be a prerequisite to the continuance of such activities, and the route proposed to be traveled by said owner and/or operator shall be subject to revision and alteration by the Council or its authorized representative and the decision rendered shall be binding on the applicant.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

67.04 USE SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 68

ONE-WAY TRAFFIC

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

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

– NONE –

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb – One-way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited

69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Truck Parking Limited
69.10 Snow Removal
69.11 Fire Lanes
69.12 Snow Routes

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

- NONE -

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (48) hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale;

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

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

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

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Parking or Terrace. No person shall drive upon or park a vehicle between the curbing of any hard surfaced street and the sidewalk, unless said area is hard surfaced with concrete, asphalt or any other hard surfacing, except during a declared emergency snow removal. "Hard surfaced" means concrete, asphalt or brick, "crushed run" rock, if the rock is no less than three (3) inches in depth and enclosed in a hard surface enclosure around the sides of the crushed run rock, by bricks, blocks, retaining wall or other solid wall confining and containing the crushed run rock.

18. Yards. No motor vehicle shall be parked in the front, side or rear yard of any lot zoned residential except on paved driveways or other hard-surfaced areas.

19. One-way Roads. In the event a highway or street includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, it is unlawful for any person to stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking.

20. Bus Stops and Taxicab Stands. A vehicle other than a bus at a bus stop or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated for such purpose and is so designated by appropriate sign, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers, when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such designated area.

21. Blocking Fire Apparatus. In any public or private alley in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.

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

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

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the *Code of Iowa* and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.
2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

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

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

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

1. Locust Street, including all of the real property owned by the City, including right-of-ways.
2. Avenue Q, on both sides, between Thirteenth Street and Ninth Street.
3. Thirteenth Street, on both sides, between Locust Street and Avenue Q.
4. Seventeenth Street, on both sides, between Avenue P and Avenue Q.
5. Lindwood, on the north side, west of Thirteenth Street.
6. Janbrook Boulevard, on the north side, west of Thirteenth Street.
7. Dorene Boulevard , on the north side, west of Thirteenth Street.

8. Mayper Drive, on the north side, west of Thirteenth Street.
9. Willow Drive, on the north side, west of Thirteenth Street.
10. Avenue P, on the north side, between Thirteenth Street and Ninth Street.
11. Ninth Street, on the west side, between Avenue H and Locust Street.
12. Fourteenth Street, on the west side, between Avenue P and Avenue Q.
13. Any portion of the roadway and the lakefront of Carter Lake at Mabrey Park or roadways at the ball park or any other City park. Parking at these areas shall be in designated parking areas only.
14. Ninth Street, on both sides, between Locust Street and Avenue Q.
15. Eleventh Street, on the east side, between Avenue K and Willow Drive.
16. Freedom Park Road.
17. Shoal Drive, on the east side.
18. Seventeenth Street, on both sides, north of Avenue Q to the entrance of Water's Edge Court, except for City sponsored special events at the sports complex.
19. Avenue H, on both sides, within the City limits, including all of the real property owned by the City, including right-of-ways.
20. Thirteenth Street, on both sides, south of Avenue H except in spaces designated for parking on the east side reserved for use by the hotel located at 1201 Avenue H.
21. Abbott Plaza, on both sides, within the City limits.
22. Avenue R, on both sides of the street, between North Eighth Street and North Ninth Street.
23. Avenue K, on both sides, from the intersection with Lindwood Drive east to the City limits.
24. City real property, including right-of-way, on Avenue J.

69.09 TRUCK PARKING LIMITED. No person shall park a motor vehicle with more than two (2) axles or four (4) tires, or licensed for more than five (5) tons in violation of the following regulations. The provisions of this section do not apply to pickup, light delivery or panel delivery trucks.

1. Prohibited Streets. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo or during construction or maintenance work on any abutting property, no person shall park or leave unattended such vehicle on any street within the City except a designated truck route. When actually receiving or delivering merchandise or cargo or during construction or maintenance activities, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic. The provisions and restrictions contained in this subsection do not apply to any vehicle of class described which, due to an emergency or actual equipment failure, is unable to be moved within a reasonable length of time or which removal would for any reason create a traffic hazard or a hazard to the safety of persons using the street or public way upon which the vehicle is parked; provided, however, such vehicle so parked shall not be permitted to remain where located for a period of time in excess of four consecutive hours, without notification being given to

the Police Chief advising as to the nature of the trouble or mechanical failure, and of the approximate length of time necessary to be so parked.

2. **Parking Restricted.** Unless otherwise posted by official signs in the City, such vehicles may be parked on any street designated as a truck route, if so parked in the manner prescribed by law, for a continuous period of time not to exceed two (2) hours.

3. **Noise.** No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

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

69.10 SNOW REMOVAL. When it becomes necessary for the City to cause snow and/or ice to be plowed or removed from its public streets, avenues, alleys or other public places, due to the accumulation of four (4) inches or more of ice or snow thereon or causing a hindrance to traffic and constituting an emergency requiring the same to be plowed or removed, the Mayor or a designated representative shall by appropriate public media declare the commencement of such emergency situation and the enforcement of emergency snow parking regulations as set forth in this section, which regulations shall remain in force and effect until lifted by the Mayor or the designated representative, except that any public street, avenue, alley or other public place which has become substantially cleared of snow and/or ice from curb to curb for the entire length of the block shall automatically terminate the emergency snow parking regulations. "Appropriate public media" is defined as being a public announcement by means of broadcasts or telecasts from local radio and television stations. The Mayor may also cause such declaration to be announced in a newspaper of general circulation in the City, when time permits. The public announcements shall also specify the time and date the emergency situation shall be in effect.

1. **Snow Parking Regulations.** Upon the accumulation of four (4) inches or more of ice or snow or upon the declaration of such emergency situation by the Mayor, there shall be no parking on the streets, avenues or alleys until streets are cleared as described in this section.

2. **Enforcement of Regulations.** The provisions of subsection 1 shall supersede all other parking regulations in force and effect and posted on any street during such emergency situation.

3. **Snow Tires and Chains.** It is unlawful for any person to operate any vehicle on the streets of the City without effective anti-skid chains or effective snow tires, when snow, sleet or freezing rain causes slippery or hazardous conditions and such operation impedes or obstructs traffic.

69.11 FIRE LANES. No person shall stop, stand or park a vehicle in a fire lane as provided herein.

(Code of Iowa, Sec. 321.236)

1. **Fire Lanes Established.** The Police Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.

2. Signs and Markings. Wherever a fire lane has been designated, the Police Chief shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.

3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

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

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

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: TRAFFIC CODE

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

3. The owner or operator of any vehicle who receives notice, either personally or by attaching of such notice to the vehicle, that the vehicle is parked in such a manner or in such a place as to violate any of the provisions of this title relating to the parking of vehicles, shall pay to the City Treasurer a penalty as set forth in the prevailing schedule of fees as adopted by the City Council, and based upon the following:

A. If the penalty is not paid within 30 days of the date of the violation, the Clerk may mail to the registered owner of the vehicle a reminder notice stating the date of the violation, license number of the vehicle, fine now due, last date to pay fine, and that failing to pay the fine will result in criminal charges being filed.

B. If the penalty is not paid within 60 days of the date of the violation, the City Treasurer shall refer the notice of violation to the City Attorney for prosecution. The City Attorney may file an information in the Iowa District Court for a violation of the provisions of this title and, upon conviction, shall be subject to the penalty provisions of Chapters 69 and 70 of this Code of Ordinances. Each day that a violation is allowed to continue shall constitute a separate and distinct violation.

C. If an arrest warrant is issued, the City Attorney shall ensure that the provisions of Section 321.40, *Code of Iowa*, pursuant to Pottawattamie County Resolution No. 55-85, are enforced, and the County Treasurer shall refuse to renew the registration of a vehicle registered to a person with such an outstanding warrant.

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of thirty dollars (\$30.00) for snow route parking violations and fifteen dollars (\$15.00) for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: BICYCLES

CHAPTER 75

BICYCLE REGULATIONS

75.01 Scope of Regulations
75.02 Traffic Code Applies
75.03 Double Riding Restricted
75.04 Two Abreast Limit
75.05 Bicycle Paths
75.06 Speed
75.07 Emerging from Alley or Driveway

75.08 Carrying Articles
75.09 Riding on Sidewalks
75.10 Towing
75.11 Improper Riding
75.12 Parking
75.13 Equipment Requirements
75.14 Special Penalty

75.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein. Police officers are exempt from the provisions of this chapter while performing their official duties.

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

75.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

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

75.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

75.07 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

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

75.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

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

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

75.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

75.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

75.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

75.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

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

(Code of Iowa, Sec. 321.397)

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

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

75.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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TITLE II – COMMUNITY PROTECTION
DIVISION 2 – ENFORCEMENT: BICYCLES

CHAPTER 76

BICYCLE LICENSING

(Chapter Deleted)

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TITLE II – COMMUNITY PROTECTION

DIVISION 2 – ENFORCEMENT: ATVs AND SNOWMOBILES

CHAPTER 80

ALL-TERRAIN VEHICLES AND SNOWMOBILES

80.01 Purpose

80.02 Definitions

80.03 General Regulations

80.04 Operation of Snowmobiles

80.05 Operation of All-Terrain Vehicles

80.06 Negligence

80.07 Accident Reports

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

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

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

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

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

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

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 2,000 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

80.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

80.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[3])

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

(Code of Iowa, Sec. 321I.14[h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

80.06 NEGLIGENCE. The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile. The owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner’s consent to operate the ATV or snowmobile at the time the injury or damage occurred.

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

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

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

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TITLE II – COMMUNITY PROTECTION

DIVISION 2 – ENFORCEMENT: ANIMAL PROTECTION AND CONTROL

CHAPTER 85

ANIMAL PROTECTION AND CONTROL – GENERAL PROVISIONS

85.01 Definitions	85.14 At Large: Impoundment
85.02 Animal Neglect	85.15 Disposition of Impounded Animals
85.03 Livestock Neglect	85.16 Fees
85.04 Abandonment of Cats and Dogs	85.17 Keeping of Dangerous Animals Prohibited
85.05 Livestock	85.18 Regulations of Keeping Dangerous Animals
85.06 At Large Prohibited	85.19 Keeping of Vicious Animals Prohibited
85.07 Bothersome Animals (<i>Deleted</i>)	85.20 Seizure, Impoundment and Disposition of Vicious Animals
85.08 Damage or Interference	85.21 Riding of Horses Prohibited
85.09 Annoyance or Disturbance	85.22 Pet Awards Prohibited
85.10 Number of Animals Limited	85.23 (<i>Reserved</i>)
85.11 Dangerous Animals	85.24 Rabies Vaccination
85.12 Owner's Duty	
85.13 Confinement	

85.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to Animal Protection and Control.

1. “Advertise” means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. “Animal” means a nonhuman vertebrate.
(*Code of Iowa, Sec. 717B.1*)
3. “Animal Control Officer” means the person designated by the Council to enforce the animal ordinances of the City.
4. “Animal shelter” means the premises and/or facility which the Animal Control Officer may from time to time designate as the location of the impoundment of animals.
5. “At large” means off the premises of the owner and not on a leash, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
6. “Bite” means any puncture, laceration, abrasion, scratch or break in the skin of a human caused by an animal.
7. “Business” means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.

8. “Dangerous animal” means:

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

B. Any animal declared to be dangerous by the Board of Health or Council; and

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

- (1) *Artiodactyla* of the family *Antilocapridae*, which includes pronghorns;
- (2) *Artiodactyla* of the family *Cervidae*, which includes moose and caribou;
- (3) *Artiodactyla* of the family *Suidae* and the genus and species *Sus scrofa* (domestic swine and wild boar), which includes all male and female wild boars;
- (4) *Bovidae* – males only (bulls);
- (5) *Carnivora* of the family *Canidae*, which includes wolves, foxes, and hybrids, but excludes domestic dogs;
- (6) *Carnivora* of the family *Felidae*, which includes lions, lynx, bobcats, and hybrids, but excludes domestic cats;
- (7) *Carnivora* of the family *Mustelidae*, which includes badgers, wolverines, weasels and skunks, except ferrets;
- (8) *Carnivora* of the family *Procyonidae*, which includes raccoons;
- (9) *Carnivora* of the family *Ursidae*, which includes bears;
- (10) *Chelonia* of the family *Chelydridae* (snapping turtles);
- (11) *Crocodylia* which includes crocodiles and alligators;
- (12) *Chiroptera* (bats);
- (13) *Proboscidae* (elephants);
- (14) *Rodentia* of the family *Cricetidae* (mice), except white mice kept as household pets;
- (15) *Rodentia* of the family *Muridae* (rats), except white rats kept as household pets;
- (16) *Scorpiones* of the family *Buthidae* (scorpions);
- (17) *Squamata* of the suborder *Ophidia* (snakes) which are venomous or constrictors, not to include any non-venomous snake indigenous to the State of Iowa.

9. “Dangerous dog” means:
- A. Any dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;
 - B. Any dog that has been cited for running at large more than twice in one year; or
 - C. Any dog that has attacked another animal while at large.
10. “Fair” means any of the following:
- A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
11. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
12. “Hybrid” means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a “dangerous animal per se.”
13. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
(*Code of Iowa, Sec. 717.1*)
14. “Owner” means any person owning, keeping, sheltering or harboring an animal.
15. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.
16. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, which has attacked or bitten any person without provocation or which has attacked or bitten any domestic animal or fowl on more than two occasions within a twelve-month period or which has been found to possess such a propensity by the Animal Control Officer, or any dog or other animal owned or harbored primarily or in part for the purpose of fighting or any dog trained for dog fighting, or which has been found to possess such a propensity by the Animal Control Officer.

85.02 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*)

85.03 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)

85.04 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)

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

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

85.07 BOTHERSOME ANIMALS. *(Deleted)*

85.08 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.

85.09 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog:

1. 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.
2. To damage, soil, defile or defecate on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
3. To cause unsanitary, dangerous or offensive conditions.

85.10 NUMBER OF ANIMALS LIMITED. No household shall have at any one time more than a total of three (3) dogs and cats, unless the dogs and cats are less than three (3) months old, kept at the household, and unless more than three (3) dogs and cats have previously been and are at the present time licensed in a household.

85.11 DANGEROUS ANIMALS.

1. No person owning, keeping or harboring a dangerous dog shall allow such animal to go unconfined on the premises of such person. A dangerous dog is unconfined if such dog is not:
 - A. Confined indoors; or
 - B. Confined in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line of said premises. Such pen or structure must have secure sides at least six feet in height, embedded into the ground no less than one foot or

secured into a concrete slab, and a secure top. The pen or structure shall be at least two lengths of the dog wide, four lengths of the dog long and two lengths of the dog high and must be constructed with chain link fencing for all four sides and top. Such pen or structure must also comply with the zoning regulations.

2. The dangerous dog must be licensed and the owner shall present to the City Clerk proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000).

3. In the event that a dangerous dog 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 life or property, such animal may, in the discretion of the Animal Control Officer or the Police Chief, 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 dog found at large, and shall have no duty to notify the owner of such animal prior to its destruction.

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

85.14 AT LARGE: IMPOUNDMENT.

1. The owner of an animal shall at all times restrain such animal to prevent it from being or running at large. An animal found at large by a police officer or Animal Control Officer shall be seized and impounded. If the police officer or Animal Control Officer is unable to apprehend the animal, or if the owner of the animal refuses to relinquish the same, the officer shall serve the owner a ticket requiring payment of an enforcement/impoundment fee to the City.

2. If a cat does not bear a current rabies vaccination tag, the owner of such cat shall at all times restrain such animal to prevent it from being or running at large. A cat found at large by a police officer or Animal Control Officer, and not wearing a current rabies vaccination tag, may, in the discretion of the police officer or Animal Control Officer, be seized and impounded. If the police officer or Animal Control Officer is unable to apprehend such cat, or if the owner of the cat refuses to relinquish same, the police officer or Animal Control Officer may serve the owner a ticket requiring payment of an enforcement/impoundment fee to the City.

3. It is lawful for any person who finds an animal at large to seize and hold the animal. Any person so seizing and holding an animal may confine it within a fenced yard, house, garage, or other structure owned by such person, or by physically restraining said animal on a harness, collar or leash. The person seizing and holding the animal shall be responsible for the humane treatment of the animal while it is under that person's custody and shall notify the Police Department or Animal Control Officer within twenty-four (24) hours that the animal is in said person's custody.
4. An animal which appears to be suffering from rabies or infected with disease, or which is seriously injured, or which, in the opinion of the Animal Control Officer or police officer is vicious, shall not be released, but shall be immediately destroyed in a humane manner.
5. Animals which are impounded shall be placed in a City animal shelter, licensed kennel, or other suitable place as directed by the Animal Control Officer.
6. When an animal has been apprehended and impounded, written notice shall be given of such impoundment to the owner, if known, within two days. If an impounded animal is not claimed within ten days, excluding Sundays and holidays, of the giving of the notice, or if the owner of the animal cannot be determined within ten days of the date of impoundment, the animal may be disposed of as provided in this chapter. The cost of impounding, board and keep and any other related costs shall be billed to the owner, if known or later identified.
7. Any animal which has been impounded at the animal shelter may be redeemed to the owner thereof upon:
 - A. Proof of ownership;
 - B. Payment of the board and keep fee, enforcement/impoundment fee, and any other related costs incurred by the City;
 - C. Presentation of the City dog license for the current year, or by purchasing such license which shall not be issued until proof of a current rabies vaccination is presented; and
 - D. Showing proof in the form of a certificate issued and signed by a licensed veterinarian that such animal has been properly vaccinated for rabies, or by posting a \$75.00 vaccination bond which may be refunded if a rabies vaccination is obtained. Application for vaccination bond redemption and for refund of the bond must be made within five (5) business days of the posting of the bond. Failure of the owner to redeem said bond shall be prima facie proof that vaccination has not been obtained.
8. For purposes of this section, the Animal Control Officer or police officer may give notice to the owner either orally, by posting a notice at the owner's residence, or by mail.
9. If an animal has been running at large or has been impounded on four prior occasions, such animal shall not be returned to the owner and may be disposed of pursuant to this chapter.

85.15 DISPOSITION OF IMPOUNDED ANIMALS. After the expiration of the ten-day impoundment period, an unredeemed animal, either licensed or unlicensed, may, at the discretion of the Animal Control Officer or police chief, be disposed of in the following manner:

1. Be humanely destroyed; or
2. Upon payment of an adoption fee, be adopted to a person other than the animal's owner, the fees for said adoption of animals to be as provided in the prevailing schedule of fees adopted by the Council; or
3. Be tendered to an authorized institution for the purpose of medical experimentation.

85.16 FEES.

1. In the event that an animal is observed at large but cannot be captured for impoundment, or in the event its owner refuses to relinquish possession of such animal for impoundment, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the City's cost in attempting to impound the animal.
2. In the event that an animal is required to be licensed pursuant to Chapter 86 of this Code of Ordinances is not licensed or does not display the license tag as required, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the City's cost in enforcing said provisions.
3. In the event that an animal is required to be vaccinated for rabies is not vaccinated as required or does not display a rabies vaccination tag, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the City's cost in enforcing said requirements.
4. In the event the owner of an animal has been served a ticket for the payment of the enforcement/impoundment fee and fails to pay the required amount due to the City within thirty (30) days of the date of issuance, the person who issued the enforcement/impoundment fee ticket shall cause a criminal complaint to be filed in the District Court for a violation of the appropriate section of this chapter. For purposes of this subsection, an enforcement/impoundment fee ticket may be served by either delivering the ticket personally to the owner or posting the ticket at the residence of the owner.
5. A fee of five dollars (\$5.00) per day shall be paid to the City for boarding and keeping any animal. Enforcement/impoundment fees are as follows:

First occurrence.....	\$ 25.00
Second occurrence	\$ 30.00
Third occurrence	\$ 40.00
Fourth occurrence.....	\$ 100.00

All fees shall be paid by cash, bank drafts, money order or certified check.

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

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, museum or other place where they are kept as live specimens for the public to view or for the purpose of instruction, research or study.

2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, show or licensed pet shop.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources.

85.18 REGULATIONS OF KEEPING DANGEROUS ANIMALS.

1. Every person owning, keeping, sheltering or harboring a dangerous animal pursuant to Section 85.17 shall report such fact to the Animal Control Officer, together with the following information:
 - A. The species name of each animal;
 - B. The number of such animals of each such species kept on the premises;
 - C. A physical description of each such animal, including any pet name to which it might respond;
 - D. The location of such animal or animals within the City, including the location of the cage or place of confinement upon or in the premises wherein the animal or animals are kept;
 - E. In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species.
2. Every person keeping, sheltering or harboring a dangerous animal shall at all times keep such animal securely confined within a cage or other enclosure.
3. Every person keeping, sheltering or harboring a poisonous dangerous animal shall be required to keep ten (10) doses of anti-venom on hand and current at all times.
4. No person owning, keeping, sheltering or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined.
5. In the event that a dangerous 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 life or property, such animal may, in the discretion of the Animal Control Officer or the Police Chief, 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 found at large, and shall have no duty to notify the owner of such animal prior to its destruction.
6. In the event that the Animal Control Officer determines that a dangerous animal is being kept, sheltered, or harbored by any person in violation of the provisions of this chapter, the Animal Control Officer may, in his or her discretion, have such person prosecuted for such violation, and/or may order such person to remove such dangerous animal from the City or destroy it. Such order shall be contained in a notice to remove dangerous animal, which notice shall be given in writing, directed to such person, and delivered personally or by certified mail. The order of the Animal Control Officer may be appealed to the Council.

7. Any person desiring to appeal an order issued by the Animal Control Officer to the Council may do so by filing a written notice of appeal with the Clerk within seven (7) days after receipt of the notice to remove the dangerous animal. The notice of appeal shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within thirty (30) days of the receipt of notice of appeal. After such hearing, the Council may affirm or reverse the order of the Animal Control Officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within twenty (20) days after the hearing, or any continued session thereof.

8. If the Council affirms the action of the Animal Control Officer, the Council shall also order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous 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 order is not complied with within seven days of its issuance, the Animal Control Officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the person against whom the decision and order of the Council was issued has not petitioned the District Court for a review of the order, the Animal Control Officer shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order of the Council issued pursuant hereto shall constitute a misdemeanor.

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

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs, however, guard dogs must be kept within a structure or fenced 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 Animal Control Officer that a guard dog is on duty at said premises.

85.20 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The Animal Control Officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The person owning, keeping, sheltering or harboring the animal in question shall be given not less than twenty-four (24) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness and shall also state that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the Council determines that an animal is vicious, the Animal Control Officer shall order the person owning, sheltering or harboring or keeping the

animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the Animal Control Officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Council was issued has not petitioned the District Court for a review of such order, the Animal Control Officer shall cause the animal to be destroyed. Failure to comply with an order of the Council issued pursuant hereto shall constitute a misdemeanor offense.

3. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the Animal Control Officer may immediately destroy it.

4. Any animal which has attacked or bitten any person without provocation or which has attacked or bitten any domestic animal or fowl on more than two occasions within a twelve-month period shall be deemed a vicious animal without necessity for hearing by the Council. This decision may, however, be appealed to the Council, by presenting a written notice of appeal to the Clerk within ten (10) days after receiving written notice of said decision.

85.21 RIDING OF HORSES PROHIBITED. It is unlawful for any person to ride or lead a horse on any public sidewalk or any other portion of the public right-of-way without a permit. A permit for riding horses shall be applied for through the Clerk's office and granted by the Mayor for a fee of \$5.00. Said permit shall be for a specific period of time and shall specify the route and that the horse shall wear a diaper or sling. All horses must be properly shod for riding on the street.

85.22 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

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

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

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

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

85.23 *(Reserved)*

85.24 RABIES VACCINATION. Every owner of a cat or dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a cat or dog in said person's possession, four months of age or over, which has not been vaccinated against rabies. A current certificate of vaccination for rabies, signed by a licensed veterinarian administering the vaccine, shall be required for all animals for which the vaccination is required by this section. The owner of an animal shall at all times cause the current rabies vaccination tag to be displayed on a collar, harness or chain attached to the animal.

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TITLE II – COMMUNITY PROTECTION

DIVISION 2 – ENFORCEMENT: ANIMAL PROTECTION AND CONTROL

CHAPTER 86

DOG AND CAT LICENSES REQUIRED

86.01 Annual License Required
86.02 License Fees
86.03 Delinquency
86.04 License Tags
86.05 License Records
86.06 Immunization

86.07 Duplicate Tags
86.08 Transfers of Licensed Dogs or Cats
86.09 Kennel Dogs or Cats
86.10 Animal Owners; Minimum Age
86.11 Stray Dogs or Cats
86.12 Number of Cats and Dogs

86.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog or cat over the age of three (3) months shall procure a dog or cat license from the Clerk on January 1 of each year.
2. Such license may be procured after January 1 and at any time for a dog or cat that has come into the possession or ownership of the applicant or which has reached the age of three (3) months after said date.
3. The owner of a dog or cat for which a license is required shall apply to the Clerk on forms provided by the Clerk.
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be revaccinated.
5. All licenses shall expire on January 1 of the year following the date of issuance.

86.02 LICENSE FEE. The annual license fee is ten dollars (\$10.00) for each dog or cat.

86.03 DELINQUENCY. All license fees shall become delinquent on the May 1 of the year in which they are due and a delinquent penalty of five dollar (\$5.00) shall be added to each unpaid license on and after said date.

86.04 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness, which shall be worn at all times by the dog or cat for which issued. A license issued for one dog or cat shall not be transferable to another dog or cat. Upon the expiration of the license the owner shall remove said tag from the dog or cat.

86.05 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.
2. The description of the dog or cat as specified in the application, together with the name of the owner of the dog or cat.
3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be revaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

86.06 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within sixty (60) days from the effective date of the dog license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog or cat.

86.07 DUPLICATE TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of five dollars (\$5.00), and the Clerk shall enter in the license record the new number assigned.

86.08 TRANSFERS OF LICENSED DOGS OR CATS. Upon transfer of a licensed dog or cat into the City, the owner shall surrender the original license tag to the Clerk. The Clerk shall preserve the surrendered tag and, without a license fee, issue a new license tag.

86.09 KENNEL DOGS OR CATS. Dogs or cats kept in State or Federally licensed kennels, and which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

86.10 ANIMAL OWNER; MINIMUM AGE.

1. No dog or cat may be licensed unless at least one of the registered owners of said animal is at least 18 years of age. All registered owners 18 years of age or older shall be personally, jointly, and severally liable for compliance with all of the provisions of this chapter.
2. In regard to an unlicensed dog, cat, or other animal, whether or not a license is required, all residents of the premises 18 years of age or older shall be presumed to be the joint owners of said animals and shall be jointly and severally liable for compliance with the provisions of this chapter.

86.11 STRAY DOGS OR CATS. No person shall allow any stray dogs or cats to habitually remain or to be lodged or fed within his or her house, store, yard, or enclosure, but shall turn such dog or cat over to the public health animal shelter.

86.12 NUMBER OF CATS AND DOGS. As provided in Section 85.10, no household shall have at any one time more than a total of three (3) animals, whether dogs or cats or any combination thereof.

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TITLE II – COMMUNITY PROTECTION

DIVISION 2 – ENFORCEMENT: ANIMAL PROTECTION AND CONTROL

CHAPTER 87

PIT BULL DOGS

87.01 Definitions

87.03 Seizure and Impoundment

87.02 Pit Bulls Prohibited

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

1. “Muzzled” means that the jaws of the pit bull are confined by a device that prevents the pit bull from biting.
2. “Owner” means any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.
3. “Pit bull” means any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
4. “Secure temporary enclosure” means an enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a “door” for removal of the pit bull. Such enclosure must be constructed so that the pit bull cannot exit the enclosure on its own.

87.02 PIT BULLS PROHIBITED. It is unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell any pit bull within the City except as provided herein.

1. The Animal Control Officer may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.
2. A person may temporarily transport into and hold in the City a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the Animal Control Officer, must obtain any other permits or licenses required by the City and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the City to and from the place of exhibition, contest, or show, keep the pit bull confined in a secure temporary enclosure.
3. The owner of any pit bull, currently licensed as of the effective date of the ordinance codified in this chapter (November 17, 2004), shall be allowed to keep such

pit bull within the City only if the owner complies with and provides sufficient evidence that the owner is in compliance with all of the following regulations:

- A. The owner of the pit bull shall keep the license for such pit bull current through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee who is at least eighteen (18) years of age.
- B. The owner of a pit bull must be at least eighteen (18) years of age.
- C. The owner shall present to the City Clerk proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000), covering any damage or injury that may be caused by a pit bull during the duration of its license. The policy shall contain a provision requiring the insurance company to provide written notice to the Clerk not less than fifteen (15) days prior to any cancellation, termination or expiration of the policy.
- D. The owner shall, at the owner's own expense, have the pit bull spayed or neutered and shall present to the Clerk or Animal Control Officer written proof from a licensed veterinarian that this sterilization has been performed.
- E. The owner shall have an identifying microchip inserted beneath the skin of the pit bull by the Council Bluffs Animal Shelter. The Council Bluffs Animal Shelter shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owner shall notify the Council Bluffs Animal Shelter and City Clerk of any change of address.
- F. When a pit bull is on the property of the owner, the owner shall at all times keep the pit bull confined indoors or in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line. Such pen or structure must have secure sides embedded into the ground no less than one foot or secured into a concrete slab, and a secure top. At all times when a pit bull is away from the property of the owner the owner shall keep the pit bull, either securely leashed with a leash of a fixed length no longer than four feet, and muzzled, or in a secure temporary enclosure.
- G. The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who is at least eighteen (18) years of age, who will then become the owner and will be subject to all of the provisions of this chapter. The owner shall notify the Clerk or Animal Control Officer within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Council Bluffs Animal Shelter for destruction or permanently remove the puppies from the City and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in the City a pit bull puppy born after the effective date of the ordinance codified in this chapter (November 17, 2004), that is more than eight weeks old. Any pit bull puppies kept contrary to the provisions of this subsection are subject to immediate impoundment and disposal pursuant to Section 87.03 of this chapter.

H. The owner shall have posted at each possible entrance to the owner's property where the pit bull is kept, a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two inches in height.

Failure by the owner to comply and remain in compliance with any of the terms of any applicable exception shall subject the pit bull to immediate impoundment and disposal, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution.

87.03 SEIZURE AND IMPOUNDMENT.

1. Notwithstanding any provisions to the contrary, the Animal Control Officer is authorized to immediately impound any pit bull found in the City which does not fall within the exceptions listed in Section 87.02, and the Council Bluffs Animal Shelter may house or dispose of such pit bull in such manner as the Animal Control Officer may deem appropriate, except as the procedures in subsection 2 below otherwise require.

2. When the Animal Control Officer has impounded any pit bull dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the Animal Control Officer for a hearing concerning such classification no later than seven days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The Animal Control Officer will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. When no written request from the owner for a hearing is received by the Animal Control Officer within seven days of impoundment, the pit bull shall be humanely destroyed.

3. The hearing, if any, will be held before the Animal Control Officer. The appellant-owner of such dog shall bear the burden of proof. Any facts that the petitioner wishes to be considered shall be submitted under oath or affirmation, either in writing or orally at the hearing. The Animal Control Officer shall make a final determination whether the dog is a pit bull. Such final determination shall be considered a final order of the Animal Control Officer subject to review as provided in Section 85.18(7) and (8) of this Code of Ordinances.

4. If the dog is found to be a pit bull, it shall be humanely destroyed, unless the owner produces evidence deemed sufficient by the Animal Control Officer that the pit bull is to be permanently taken out of the City, and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner.

5. The procedures in this section shall not apply, and the owner is not entitled to such a hearing with respect to any dog that was impounded as the immediate result of an attack or bite. In those instances, the dog shall be handled, and the procedures governed by the provisions of Section 85.18 of this Code of Ordinances.

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TITLE III – PUBLIC SERVICES

WATER SERVICE SYSTEM

CHAPTER 90

WATER SERVICE SYSTEM – GENERAL PROVISIONS

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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. "Maintenance Supervisor" means the primary supervisor of the maintenance department or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 MAINTENANCE SUPERVISOR'S DUTIES. The Maintenance Supervisor 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 except for those responsibilities delegated to another officer of 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 Maintenance Supervisor 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 Maintenance Supervisor may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight. Reconnection to the abandoned tap shall not be allowed once a water service has been abandoned.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the Maintenance Supervisor. 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. No different or additional uses will be allowed except by written permission of the Maintenance Supervisor. The Maintenance Supervisor shall sign and issue the permit and state the time of issuance if the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid. Work under any permit must be completed within thirty (30) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The Maintenance Supervisor may at any time revoke the permit for any violation of this chapter and require that the work be stopped.

90.06 CONNECTION CHARGE. The person making said request for connection shall be required to pay a connection charge to the City as may be established by the Metropolitan Utilities District, plus each residential dwelling and commercial or industrial building shall pay an additional two hundred fifty dollars (\$250.00) for a City connection fee plus the cost of the water meter.

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

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

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 175 of this Code of Ordinances.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Maintenance Supervisor 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 Building Inspector and the Maintenance Supervisor and unless provision is made so that each house, building, or premises may be shut off independently of the other.

2. **Sizes and Location of Taps.** All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Maintenance Supervisor shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. **Corporation Stop.** A brass corporation stop, of the pattern and weight approved by the Maintenance Supervisor, 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 Maintenance Supervisor in such form as the Maintenance Supervisor shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be standard weight Type K copper. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof, plus an administrative fee, 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 Maintenance Supervisor. The shut-off valve shall be constructed to be visible and even with the pavement or ground. Shut-off valves that extend more than one-half inch above the pavement or ground shall be determined to be a tripping hazard and will be repaired by the City, and the City shall assess the cost of the repair, plus the administrative fee, to the property.

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 Maintenance Supervisor before they are covered, and the Maintenance Supervisor shall keep a record of such approvals. If the Maintenance Supervisor 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 Maintenance Supervisor or Building Inspector or their designated representative to enter the premises to inspect or make

necessary alterations or repairs at all reasonable hours and on proof of authority. The City may assess the cost thereof, plus an administrative fee, to the property.

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 Maintenance Supervisor shall have the right to finish or correct the work, and the Council shall assess the costs, plus an administrative fee, 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 Maintenance Supervisor or a designated representative may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters which is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Maintenance Supervisor or the designated representative has ordered the water to be turned on.

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

90.20 WATER SERVICES ONLY FOR SPRINKLER SYSTEMS. A property owner that has a water service for a sprinkler system only, and which is separately metered, is required to temporarily discontinue and shut off at the curb valve, on or before November 1 of each year, and have the meter read at that time. There shall be a \$20.00 fee charged for restoring service. During a period when service is temporarily discontinued as provided herein, there shall be no minimum service charge. However, if a customer fails to have the service temporarily disconnected, it will not relieve the customer from the minimum service charges.

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TITLE III – PUBLIC SERVICES

WATER SERVICE SYSTEM

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 Repairs
91.07 Right of Entry
91.08 Remote Readers

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 purchased from the City and installed by the City or its agent.

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 Maintenance Supervisor or Building Inspector. 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 Maintenance Supervisor and shall be of a design and construction approved by the Maintenance Supervisor.

91.06 METER REPAIRS. Whenever a water meter is found to be out of order, the Maintenance Supervisor or a designated agent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs. Effective July 1, 2007, the City shall pay for the cost to repair and replace any meter and/or remote reading device that has not been damaged due to the carelessness or negligence of the customer or property owner.

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

91.08 REMOTE READERS. Each location, building, premises, or connection made hereunder, or continuation thereof, shall necessitate each customer to install a special meter to allow for remote reading of usage. Effective July 1, 2007, the cost of the initial meter and any installation thereof for new construction shall be borne by the customer. The City shall

designate the appropriate equipment to be used and shall designate the appropriate contractor for installation. Any other equipment used by a customer or installed by an organization or person other than that designated by the City shall be considered a violation of this section.

TITLE III – PUBLIC SERVICES

WATER SERVICE SYSTEM

CHAPTER 92

WATER RATES

92.01 Service Charges
 92.02 Rates For Service
 92.03 Billing for Water Service
 92.04 Service Discontinued
 92.05 Lien for Nonpayment

92.06 Lien Exemption
 92.07 Lien Notice
 92.08 Customer Deposits
 92.09 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.

1. Monthly Rate. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

<i>November 1, 2012 – June 30, 2013</i>	
Number of Units	Cost Per Unit
1 to 2 units	\$ 13.92 (minimum bill)
Next 48 units	\$ 1.59
Next 450 units	\$ 1.50
Next 1,000 units	\$ 1.08
Excess of 1,500 units	\$ 1.15

<i>July 1, 2013 – June 30, 2014</i>	
Number of Units	Cost Per Unit
1 to 2 units	\$ 18.10 (minimum bill)
Next 48 units	\$ 2.06
Next 450 units	\$ 1.96
Next 1,000 units	\$ 1.40
Excess of 1,500 units	\$ 1.49
<i>One unit of water = 100 cubic feet</i>	

<i>July 1, 2014 – June 30, 2015</i>	
Number of Units	Cost Per Unit
1 to 2 units	\$ 18.74 (minimum bill)
Next 48 units	\$ 2.14
Next 450 units	\$ 2.02
Next 1,000 units	\$ 1.45
Excess of 1,500 units	\$ 1.54

<i>July 1, 2015 – June 30, 2016</i>	
Number of Units	Cost Per Unit
1 to 2 units	\$ 19.30 (minimum bill)
Next 48 units	\$ 2.20
Next 450 units	\$ 2.08
Next 1,000 units	\$ 1.49
Excess of 1,500 units	\$ 1.59

<i>July 1, 2016 – June 30, 2017</i>	
Number of Units	Cost Per Unit
1 to 2 units	\$ 19.88 (minimum bill)
Next 48 units	\$ 2.27
Next 450 units	\$ 2.15
Next 1,000 units	\$ 1.54
Excess of 1,500 units	\$ 1.63

<i>July 1, 2017 and after</i>	
Number of Units	Cost Per Unit
1 to 2 units	\$ 20.67 (minimum bill)
Next 48 units	\$ 2.36
Next 450 units	\$ 2.23
Next 1,000 units	\$ 1.60
Excess of 1,500 units	\$ 1.70
<i>One unit of water = 100 cubic feet</i>	

2. Large Users of Water. Large users of water are identified as users consuming 2,501 units or more per month. The special rate for larger users includes a monthly minimum bill and a per-unit cost thereafter.

<i>November 1, 2012 – June 30, 2013</i> <i>Monthly Bill</i>	
First 2,500 units per month	\$ 597.91 (minimum bill)
Per-unit cost over 2,500	\$.98

<i>July 1, 2013 – June 30, 2014</i> <i>Monthly Bill</i>	
First 2,500 units per month	\$ 777.29 (minimum bill)
Per-unit cost over 2,500	\$ 1.27

<i>July 1, 2014 – June 30, 2015</i> <i>Monthly Bill</i>	
First 2,500 units per month	\$ 804.49 (minimum bill)
Per-unit cost over 2,500	\$ 1.32

<i>July 1, 2015 – June 30, 2016</i> <i>Monthly Bill</i>	
First 2,500 units per month	\$ 828.63 (minimum bill)
Per-unit cost over 2,500	\$ 1.36

<i>July 1, 2016 – June 30, 2017</i> <i>Monthly Bill</i>	
First 2,500 units per month	\$ 853.48 (minimum bill)
Per-unit cost over 2,500	\$ 1.40

<i>July 1, 2017 and after</i> <i>Monthly Bill</i>	
First 2,500 units per month	\$ 887.62 (minimum bill)
Per-unit cost over 2,500	\$ 1.45

3. Administrative Fee. The City contracts for the reading of the utilities and other necessary related billing and collection services. Pursuant to a written public contract entered into between the City and the contractor, the cost of this administrative service is passed along to each customer. Each charge for each service rendered shall be clearly listed and disclosed to each utility customer. The payment of these fees is an integral part of the water service provided by the City to its residents. Customers shall receive at least 30 days' notice of any increase in administrative charges necessitated by contracts entered into by the City. The amount of the

administrative fee charged to each customer is \$4.00 per month from and after November 1, 2012.

92.03 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 City shall designate an agent to prepare, date, and issue bills for combined service accounts. Bills shall be deemed issued as of the date indicated on the bills.
2. Bills Payable. Bills for combined service accounts shall be due and payable within twenty (20) days of the date of issue.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of nine percent (9%) of the amount due shall be added to each delinquent bill.
4. Delinquent Fee. A delinquent fee of \$3.00 will be assessed to any bill not paid by the 10th of the month. This fee will be assessed to cover the cost of preparing and mailing the delinquent notice post cards.
5. Shut-Off Notice Fee. A \$7.00 fee will be assessed to any account where payment is not made in a timely manner and the billing agent must deliver a shut-off notice to the property. This fee will be assessed to cover the cost of preparing, delivering and posting the shut-off fees.
6. Service Termination; Restoration Fee. A \$30.00 fee will be assessed to any account where service is shut off for lack of payment. This fee will be assessed to compensate for the cost of discontinuing and restoring water service.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The City's designated billing agent shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Clerk finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of thirty dollars (\$30.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

92.05 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)

92.06 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. In addition, a lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, solid waste disposal, and administrative fees paid to the City where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if all 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 thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

(Code of Iowa, Sec. 384.84)

92.07 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.08 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer a \$150.00 deposit intended to guarantee the payment of bills for service. After a period of two years from the initial deposit, if the payments are current and timely, the deposit shall be refunded. If water service has been discontinued for any customer by reason of the failure to pay a bill, there shall be required a deposit of \$150.00 plus the charge to reconnect the water before water service is restored.

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a \$30.00 fee collected for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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TITLE III – PUBLIC SERVICES

SANITARY SEWERS

CHAPTER 95

SANITARY SEWER SYSTEM – GENERAL PROVISIONS

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

95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

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

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

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 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.
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. “Maintenance Supervisor” means the primary supervisor of the maintenance department or any duly authorized assistant, agent or representative.
10. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
11. “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.
12. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
13. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
14. “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.
15. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
16. “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.
17. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
18. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
19. “Sewer” means a pipe or conduit for carrying sewage.
20. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
21. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.
22. “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.
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 MAINTENANCE SUPERVISOR. The Maintenance Supervisor 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 Maintenance Supervisor.

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 sixty (60) 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 Maintenance Supervisor and other duly authorized employees of the City or its agents 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 Maintenance Supervisor or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

TITLE III – PUBLIC SERVICES

SANITARY SEWERS

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 Backwater Valves Required
96.08 Sewer Tap
96.09 Inspection Required
96.10 Property Owner's Responsibility
96.11 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 Building Inspector. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. All applications for connection to the public sewer system shall be accompanied by a connection charge in accordance with the following:

1. Residential Premises – \$600.00.
2. Commercial and Industrial Premises – \$1,750.00, with consideration given to additional fees charged per acre if the development is anticipated to have higher than average sewer usage. Additional fees will be determined by the Planning Board and approved by the Council.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 175 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Maintenance Supervisor 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 Maintenance Supervisor, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Maintenance Supervisor 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 2.50 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 Maintenance Supervisor and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Maintenance Supervisor. 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 Maintenance Supervisor. 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 Building Inspector or the Maintenance Supervisor, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Building Inspector or the Maintenance Supervisor, 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 BACKWATER VALVES REQUIRED. Any repairs on any drainage piping as described in this section or any new construction of drainage piping as described in this section or any property which has had any prior backup or flooding in the sewer system, and all dwellings which are remodeled and all new dwellings shall comply with the provisions of this section.

1. Drainage Below Curb and Main Sewer Level. Drainage piping serving fixtures, the flood level rims of which are located below the elevation of the curb or

property line, at the point where the building sewer crosses under the curb or property line, and above the crown level of the main sewer, shall drain by gravity into the main sewer and shall be protected from back flow of sewage by installing an approved type of backwater valve, and each such backwater valve shall be installed only in that branch or section of the drainage system which receives the discharge from fixtures located below the elevation of the curb or property line.

- A. Drainage piping serving fixtures that are located below the crown level of the main sewer shall discharge into an approved watertight sump or receiving tank, so located as to receive the sewage or waste by gravity. From such sump or receiving tank, the sewage or other liquid wastes shall be lifted and discharged into the building drain or building sewer by approved ejectors, pumps or other equally efficient approved mechanical devices.
 - B. The minimum size of any pump or any discharge pipe from a sump having a water closet connected thereto shall be not less than two inches.
 - C. The discharge line from such ejector, pump or other mechanical device shall be provided with an accessible backwater or swing check valve and gate valve and if the gravity drainage line to which such discharge line connects is horizontal, the method of connection shall be from the top through a lateral wye branch fitting.
 - D. Building drains or building sewers receiving discharge from any pump or ejector shall be adequately sized to prevent overloading. Two fixture units shall be allowed for each gallon per minute of continuous flow.
 - E. Gate valves, motors, compressors, air tanks or other mechanical devices required by this section shall be located where they will be readily and easily accessible for inspection and repair at all times, and unless continuously exposed, shall be enclosed in a watertight masonry pit fitted with an adequately sized removable cover.
2. Construction Standards. Backwater valves shall have cast iron or brass bodies, non-corrosive bearings, seats and self aligning discs, and shall be so constructed as to insure a positive mechanical seal and to remain closed, except when discharging wastes. Such valves shall remain sufficiently open during periods of low flows to avoid screening of solids and shall not restrict capacities or cause excessive turbulence during peak loads. Valve access covers shall be bolted type with gasket and each valve shall bear the manufacturer's name case into body and cover.

96.08 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Maintenance Supervisor. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Maintenance Supervisor and in accordance with the Maintenance Supervisor's direction if such connection is approved.

96.09 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Maintenance Supervisor. As soon as all pipe work from the public sewer to inside the building has been completed, and

before any backfilling is done, the Maintenance Supervisor shall be notified and the Maintenance Supervisor shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Building Inspector refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.10 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.11 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, plus an administrative fee, 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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TITLE III – PUBLIC SERVICES

SANITARY SEWERS

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 storm sewers, or to a natural outlet approved by the Maintenance Supervisor. Industrial cooling water or unpolluted process waters may be discharged on approval of the Maintenance Supervisor, to a storm 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 Maintenance Supervisor where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Maintenance Supervisor. Where necessary in the opinion of the Maintenance Supervisor, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Maintenance Supervisor 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 Maintenance Supervisor 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 Maintenance Supervisor will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City of Omaha Standards 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 Maintenance Supervisor 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 Maintenance Supervisor 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 Maintenance Supervisor, at the direction and guidance of the City of Omaha, 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 Maintenance Supervisor 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 Maintenance Supervisor 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 Maintenance Supervisor and the City of Omaha, 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 Maintenance Supervisor, 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 Maintenance Supervisor. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

TITLE III – PUBLIC SERVICES

SANITARY SEWERS

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these

Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

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

TITLE III – PUBLIC SERVICES
SANITARY SEWERS

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 for the use of and for the service supplied by the municipal sanitary sewer system as follows:

1. Residential property owners shall be charged a flat fee per month in accordance with the following:

November 1, 2012 – June 30, 2013	\$27.58
July 1, 2013 – June 30, 2014	\$34.75
July 1, 2014 – June 30, 2015	\$36.49
July 1, 2015 – June 30, 2016	\$38.68
July 1, 2016 – June 30, 2017	\$40.61
July 1, 2017 and after	\$42.24

2. Multi-dwelling, commercial, and industrial property owners shall pay a monthly charge based upon the amount of water consumed as follows:

<i>November 1, 2012 – June 30, 2013</i>	
Number of Units	Monthly Charge
First 3 Units	\$ 32.51 (Minimum Bill)
Next 47 Units	\$ 1.55 per unit
Next 450 Units	\$ 1.53 per unit
500 Units and Over	\$ 1.30 per unit

<i>July 1, 2013 – June 30, 2014</i>	
Number of Units	Monthly Charge
First 3 Units	\$ 40.96 (Minimum Bill)
Next 47 Units	\$ 1.96 per unit
Next 450 Units	\$ 1.92 per unit
500 Units and Over	\$ 1.63 per unit

<i>July 1, 2014 – June 30, 2015</i>	
Number of Units	Monthly Charge
First 3 Units	\$ 43.01 (Minimum Bill)
Next 47 Units	\$ 2.05 per unit
Next 450 Units	\$ 2.02 per unit
500 Units and Over	\$ 1.71 per unit

<i>July 1, 2015 – June 30, 2016</i>	
Number of Units	Monthly Charge
First 3 Units	\$ 45.59 (Minimum Bill)
Next 47 Units	\$ 2.18 per unit
Next 450 Units	\$ 2.14 per unit
500 Units and Over	\$ 1.82 per unit

<i>July 1, 2016 – June 30, 2017</i>	
Number of Units	Monthly Charge
First 3 Units	\$ 47.87 (Minimum Bill)
Next 47 Units	\$ 2.29 per unit
Next 450 Units	\$ 2.25 per unit
500 Units and Over	\$ 1.91 per unit

<i>July 1, 2017 and after</i>	
Number of Units	Monthly Charge
First 3 Units	\$ 49.78 (Minimum Bill)
Next 47 Units	\$ 2.38 per unit
Next 450 Units	\$ 2.34 per unit
500 Units and Over	\$ 1.98 per unit

99.03 SPECIAL RATES. Where, in the judgment of the Maintenance Supervisor 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 Maintenance Supervisor 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 92.03 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the 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.

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TITLE III – PUBLIC SERVICES

SOLID WASTE CONTROL

CHAPTER 105

SOLID WASTE CONTROL – GENERAL PROVISIONS

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Littering Prohibited

105.07 Open Dumping Prohibited
105.08 Separation of Yard Waste Required
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit or drop.
(*Code of Iowa, Sec. 455B.361[2]*)
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(*IAC, 567-100.2*)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.
(*IAC, 567-20.2[455B]*)
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.
(*Code of Iowa, Sec. 455B.361[1]*)
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

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

(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including eight (8) separate dwelling units.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

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

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

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 15

days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 55 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

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

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

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

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. 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])

3. 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])

4. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

5. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

6. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

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

(IAC, 567-23.2[2])

105.06 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)

105.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.08 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or placed in acceptable containers and set out for collection. Yard waste bundles shall not exceed 4 feet in length, 2 feet in diameter, 50 pounds in weight, or as otherwise specified in current contract. Yard waste shall be collected from residential premises once each week from April 1 to November 30. 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.

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

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

- A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be leakproof

and waterproof. Disposable containers shall not exceed 35 gallons or weigh more than 30 pounds and shall be securely fastened. Reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall not exceed 35 gallons or weigh more than 50 pounds and shall have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

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

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served by 6:00 a.m. on the regularly scheduled collection days. However, no containers shall be placed at the curb side for collection earlier than 6:00 p.m. on the night before the regularly scheduled collection day and no container shall remain at the curb side later than 10:00 p.m. on the day of collection.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

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

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

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

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

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector, a member of a law enforcement agency or other authorized personnel.

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TITLE III – PUBLIC SERVICES

SOLID WASTE CONTROL

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry

106.07 Collector's Permit
106.08 Collection Fees
106.09 Lien for Nonpayment
106.10 Curbside Recycling Program
106.11 Hours of Collection

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste and recyclable materials, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

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

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary.

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

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

106.07 COLLECTOR'S PERMIT. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person

within the City without first obtaining from the City an annual permit in accordance with the following:

1. Application. Application for a solid waste collector's permit shall be made to the Clerk and provide the following:

A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury: – \$100,000 per person.
 – \$300,000 per occurrence.

Property Damage: – \$ 50,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. Permit Fee. A permit fee in the amount of one hundred dollars (\$100.00) shall accompany the application. In the event the requested permit is not granted, the fee paid shall be refunded to the applicant.

4. Permit Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested permit shall be issued to be effective for a period of one year from the date approved.

5. Permit Renewal. An annual permit may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. Permit Not Transferable. No permit authorized by this chapter may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the 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.

8. Grading or Excavation Excepted. No permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

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

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

1. Residential. The monthly fee for solid waste collection and disposal service, used or available, for each residential premises, shall be:

November 1, 2012 – June 30, 2013	\$5.50
July 1, 2013 – June 30, 2014	\$6.00
July 1, 2014 – June 30, 2015	\$6.50
July 1, 2015 – June 30, 2016	\$7.00
July 1, 2016 – June 30, 2017	\$7.50
July 1, 2017 and after	\$8.00

2. Special Fees. A special fee of \$4.00 per month shall be charged by the City and collected from each family unit or owner of a residential premises served by refuse collection service who:

A. Has filed a claim for tax reimbursement and has established eligibility as such a claimant under the provisions of Chapter 251 of the *Code of Iowa*, Tax Relief for the Elderly and Disabled, with reference to such residential premises, and whose combined income of the family unit does not exceed \$13,500.00, or has established eligibility under Title 19 for State Medical Assistance and is classified as “A” Aged, “B” Blind, or “D” Disabled, and the combined income of the family unit does not exceed \$13,500.00;

B. Has waived any right to confidentiality relating to all income tax information obtainable through the State Department of Revenue;

C. Has filed an application with the City reciting such facts and asking for the benefits of this provision subject to verification by the State Department of Revenue; and

D. Has received notification by the City that such application has been approved by the City or its designee.

3. 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 92.03 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the 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)

106.10 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. All recyclable material shall be separated and prepared for collection in accordance with the rules and regulations as established by the collector.

106.11 HOURS OF COLLECTION. All collection of solid waste shall be conducted in accordance with and subject to the provisions of this chapter and shall be performed between the hours of 6:00 a.m. and 10:00 p.m.

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TITLE III – PUBLIC SERVICES

STORM WATER UTILITY

CHAPTER 110

STORM WATER UTILITY

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110.04 Effective Date of Storm Water Service Charges	110.14 Termination of Utility Services and Assessment of Unpaid Charges
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110.01 PURPOSE AND OBJECTIVE.

1. The purpose of this chapter is to establish a policy and procedure for managing and controlling the quantity and quality of storm water runoff, within the City limits. The management shall include the establishment of a storm water utility to provide revenues for whatever aspects of this requirement are deemed appropriate by the City.
2. The City finds, determines, and declares that the storm water drainage system provides benefits and services to all property within the City limits. Such benefits include, but are not limited to: the provision of adequate systems for collection, conveyance, detention, treatment, and release of storm water for quality and quantity management that minimize impacts on receiving waters.
3. In order to manage additions and improvements to the City storm water systems, the City must have adequate and stable funding for its storm water management program operating and capital investment needs.

110.02 CREATION OF A STORM WATER MANAGEMENT AND DRAINAGE SYSTEMS UTILITY.

1. The function of the Storm Water Management and Drainage Systems Utility (hereinafter referred to as “storm water utility”) within the Maintenance Department is to provide for the safe and efficient capture of storm water runoff, mitigate the damaging effects of storm water runoff, correction of storm water problems, to fund activities of storm water management, and includes design, planning, regulations, education, coordination, construction, operations, maintenance, inspection, and enforcement activities.
2. There is hereby established a storm water utility within the City which shall be responsible for creating revenue for storm water management throughout the City’s corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of storm water systems and facilities. Such utility shall be

under the operational direction of the Maintenance Supervisor. The corporate limits of the City shall constitute the boundaries of the storm water utility district.

3. The City shall establish a Storm Water Utility Fund in the City budget and accounting system, separate and apart from its General Fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility.

110.03 DEFINITIONS.

1. “Adjustment” means a modification in a nonresidential customer’s storm water service fee for certain activities that impact storm water runoff or impact the City’s costs of providing storm water management.

2. “Detached dwelling unit” means developed land containing one structure that is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land.

3. “Director” means the director of the Storm Water Utility.

4. “Equivalent Residential Unit” (ERU) means the average area of a detached dwelling unit property within the City, and shall be used as the basis for determining storm water service charges to detached dwelling unit properties. One ERU is equivalent to 12,750 square feet.

5. “ERU rate” means the dollar value periodically determined and assigned to each ERU as a charge for storm water management services, expressed as \$4.00 per ERU.

6. “Exempt property” includes public streets, alleys, and sidewalks.

7. “Ground water” means sub-surface water or water stored in pores, cracks, and crevices in the ground below the water table.

8. “Impervious area” means the number of square feet of hard-surfaced areas which either prevent or resist the entry of water into soil surface, as it entered under natural conditions as undeveloped property, and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property. This includes but is not limited to roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, athletic courts, and semi-impervious surfaces such as gravel which are used as driveways or parking lots.

9. “Nonresidential properties” means all properties not encompassed by the definition of residential property. Nonresidential properties include: apartment building properties; condominium properties; mobile home parks; commercial property; industrial property; institutional property; governmental property; churches; hospitals; schools; transient rentals; parking lots; Federal, State and local properties; and any other property not mentioned in the lists of properties.

10. “Occupant” means the person residing or doing business on the property. In a family or household situation, the person responsible for the obligation imposed shall be the adult head of the household. In a shared dwelling or office situation, the adult legally responsible for the management or condition of the property shall be responsible.

11. “Owner” means the legal owner(s) of record as shown on the tax rolls of Carter Lake, Iowa, except where there is a recorded land sale contract, the purchaser thereunder shall be deemed the owner.
12. “Residential property” means all single-family and duplex properties within the City.
13. “Service charges” means the periodic rate, fee, or charge applicable to a parcel of land, which charge shall be reflective of the service provided by the Carter Lake storm water utility.
14. “Storm sewer” means a sewer that carries storm water, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than permitted discharges.
15. “Storm water” means storm water runoff, snowmelt runoff, and surface runoff and drainage.
16. “Storm water drainage system” means all manmade facilities, structures, and natural watercourses owned by the City, used for collection and conducting storm water to, through, and from drainage areas to the points of final outlet, including (but not limited to) any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gullies, ravines, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations.
17. “Storm water facilities” means various storm water and drainage works, which may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, stream channels, outlets, retention/detention basins, infiltration practices and other structural components.
18. “Storm water management” means the tasks required to control storm water runoff using storm water management systems, to protect the health, safety, and welfare of the public, and comply with relevant State and Federal regulations.
19. “Storm water management systems” address the issues of drainage management (flooding) and environmental quality (pollution, erosion, and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of storm water or surface water drainage.
20. “Storm water utility” means the utility established under this chapter for the purpose of managing storm water and imposing charges for the recovery of costs connected with such storm water management.
21. “Surface water” means water bodies and any water temporarily residing on the surface of the ground including lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.
22. “Undeveloped property” describes land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have minimal concrete pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface.
23. “User” means the owner and/or occupant of any property within the limits of the City, and means any person who uses property that maintains connection to,

discharges to, or otherwise receives services from the City for storm water management. The occupant of any habitable property is deemed the user. If the property is not occupied, then the owner shall be deemed the user.

24. “Water course” means a natural overland route through which water passes, including drainage courses, streams, creeks, and rivers.

110.04 EFFECTIVE DATE OF STORM WATER SERVICE CHARGES. Storm water service charges shall accrue beginning November 1, 2012, and shall be billed monthly thereafter to all customers.

110.05 STORM WATER UTILITY FUND.

1. Funding for the storm water utility’s activities may include, but are not limited to: storm water service charges; storm water permits and inspection fees; other funds or income obtained from Federal, State, local, and private grants, or loans.
2. All service charges and all sources of revenue generated by or on behalf of the storm water utility shall be deposited in a storm water utility fund and used exclusively for management of the storm water utility.

110.06 STORM WATER UTILITY BUDGET. The City shall adopt an operating and capital budget for the storm water utility each fiscal year. The budget shall set forth revenues for such fiscal year and estimated expenditures for operations, maintenance, improvements, replacement, and debt service. No revenues generated by the storm water utility user fee shall be used for any purpose other than storm water expenses.

110.07 RATE STRUCTURE AND STORM WATER SERVICE CHARGE. Any property, lot, parcel of land, building, or premises that is tributary directly or indirectly to the storm water system of the City, shall be subject to a charge based upon the square footage of the property situated within the City. This charge is not related to the water and/or sewer service and does not rely on occupancy of the premises to be in effect. All properties within the City will be assigned an equivalent residential unit (ERU) or a multiple thereof, with all properties receiving at least one ERU, which shall be considered the base or minimum rate for storm water utility charge.

1. For the purpose of this chapter, an ERU is equivalent to 12,750 square feet or less in area.
2. Determination of Storm Water Utility Fee.
 - A. The storm water utility fee for residential areas shall be 100% of the ERU rate. Effective November 1, 2012, the rate shall be based on the following schedule:

Residential properties of 12,750 square feet or less	Base rate (1 ERU) \$4.00 per month
Residential properties in excess of 12,750 square feet	Base rate (1 ERU) \$4.00 per month plus \$.0002 multiplied by the number of square feet in excess of 12,750 square feet

The maximum residential bill per month will be \$25.00. Changes to the monthly rate shall be determined by ordinance.

B. The storm water utility fee for commercial properties shall be:

Commercial properties of 219,391 square feet or less	Base rate \$6.00 per month
Commercial properties in excess of 219,391 square feet	Base rate \$6.00 per month plus \$.0004 multiplied by the number of square feet in excess of 219,391 square feet

The maximum commercial bill per month will be \$50.00. Changes to the monthly rate shall be determined by ordinance. The number of square feet on each property shall be determined by the storm water utility.

C. The storm water utility fee for industrial properties shall be:

Industrial properties of 336,926 square feet or less	Base rate \$6.00 per month
Industrial properties in excess of 336,926 square feet	Base rate \$6.00 per month plus \$.0004 multiplied by the number of square feet in excess of 336,926 square feet

The maximum industrial bill per month will be \$50.00. Changes to the monthly rate shall be determined by ordinance. The number of square feet on each property shall be determined by the storm water utility.

D. The storm water utility fee for government, church and non-profit properties shall be a rate equivalent to commercial and industrial properties:

Government, church, and non-profit properties of 219,391 square feet or less	Base rate \$6.00 per month
Commercial and industrial properties in excess of 219,391 square feet	Base rate \$6.00 per month plus \$.0004 multiplied by the number of square feet in excess of 219,391 square feet

The maximum government, church, and non-profit bill per month will be \$50.00. If a government, church, or non-profit owns multiple adjoining properties, the owner will be charged one fee at the commercial and industrial rate per month for all of the adjoining properties. Changes to the monthly rate shall be determined by ordinance.

E. Effective November 1, 2012, the storm water utility fee for mobile home community property shall be charged a per residence fee of \$4.00 per month based on the average number of mobile homes in the community.

110.08 POWERS OF DIRECTOR OF THE STORM WATER UTILITY. Storm water service charges incurred pursuant to this chapter may be collected by the City Clerk or designee, who is also responsible for the regulation, collection, rebating and refunding of such storm water charges. The storm water utility service charge may be billed on a common statement and collected along with other City utility services, usually on a monthly basis. Any property that is currently not developed and does not receive a water and/or sewer utility bill will be billed on a quarterly basis for the prior three months' storm water utility fee.

110.09 POWERS AND DUTIES OF THE CITY. The City shall have the following powers, duties, and responsibilities with respect to the storm water utility:

1. Administer the design, construction, maintenance, and operation of the utility system, including capital improvements designated in the comprehensive drainage plan.
2. Acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage, and finance such facilities, operations, and activities, as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, but are not limited to, surface and underground drainage facilities, storm sewers, watercourses, ponds, ditches, and such other facilities relating to collection, runoff, treatment and retention that will support a storm water management system.
3. The City shall separately account for the storm water utility finances. The storm water utility shall prepare an annual budget, which is to include all operation and maintenance costs and costs of borrowing. The budget is subject to approval by the City Council. Any excess of revenues over expenditures in a year shall be retained in a segregated fund, which shall be used for storm water utility expenses in subsequent years. Storm water utility fees collected shall be deposited in the storm water utility fund and shall be used for no other purpose.

110.10 RESPONSIBILITY FOR THE STORM WATER MANAGEMENT AND DRAINAGE SYSTEM.

1. The City storm water management and drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or manmade, within the political boundaries of the City which control and/or convey storm water through which the City intentionally diverts surface waters from its public streets and properties. The City owns or has legal access for purposes of operation, maintenance, and improvements to those segments of this system which:
 - A. Are located within public streets, rights-of-way, and easements;
 - B. Are subject to easements of rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or
 - C. Are located on public lands to which the City has adequate access for operation, maintenance, and/or improvement of systems and facilities. Operation and maintenance of storm water systems and facilities which are located on private property or public property not owned by the City and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner.
2. It is the intent of this chapter to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with an individual person or to any specified property within or without

the boundaries of the City. The City expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created.

110.11 REQUIREMENTS FOR ON-SITE STORM WATER SYSTEMS, ENFORCEMENT AND INSPECTIONS.

1. All property owners and developers of developed real property within the City shall provide, manage, maintain, and operate on-site storm water systems sufficient to collect, convey, detain, and discharge storm water in a safe manner consistent with all City, State, and Federal laws and regulations.
2. Pursuant Section 364.12(3) or successor section of the *Code of Iowa*, any failure to meet this obligation may constitute a nuisance and may be subject to an abatement action filed by the City. In the event a nuisance is found to exist, which the owner fails to properly abate within such reasonable time as allowed by the City, the City may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. The City shall have the right, pursuant to the authority of this section, for its designated officers and employees to enter upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

110.12 RIGHT TO APPEAL. Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

1. An appeal must be filed in writing with the City Maintenance Supervisor. In the case of service charge appeals, the appeal shall include a survey prepared by a registered Iowa land surveyor or professional engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.
2. Using the information provided by the appellant, the Maintenance Supervisor shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days.
3. In response to an appeal, the Maintenance Supervisor may adjust the storm water service charge applicable to a property in conformance with the general purpose and intent of this chapter.
4. A decision of the Maintenance Supervisor which is adverse to an appellant may be further appealed to the City Council within 30 days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Council by the appellant, stating the grounds for the appeal. The Council shall schedule a public hearing within 30 days. All decisions of the Council shall be served on the appellant by registered mail, sent to the billing address of the appellant.
5. All decisions of the Council shall be final.

110.13 BILLING AND COLLECTION.

1. The storm water utility service charge may be billed on a common statement and collected along with other City utility services, usually on a monthly basis. Any property that is currently not developed and does not receive a water and/or sewer utility bill will be billed on a quarterly basis for the prior three months' storm water utility fee.
2. A storm water service charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for nonpayment. Regardless of the party to whom the bill is initially directed, liability for payment of the storm water management charge attributable to that property shall be joint and several as to the owner and occupant.
3. All comprehensive storm water service charges are due and payable 30 days after the date of billing.
4. A penalty of nine percent shall be added to a comprehensive storm water service charge when the charge is not paid in said 30 days.

110.14 TERMINATION OF UTILITY SERVICES AND ASSESSMENT OF UNPAID CHARGES. After giving reasonable notice, the City may discontinue water service to any customer who has failed to pay the amounts due and owing under this chapter and who has not contested the payment therefor in good faith. Unpaid storm water utility fees may be charged or assessed in the same manner as water, sewer, and garbage utility.

110.15 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for storm water service charges to the premises. Storm 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)

110.16 LIEN NOTICE. A lien for delinquent storm water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

110.17 EXEMPTIONS AND CREDITS APPLICABLE TO STORM WATER SERVICE CHARGES. All public or private property shall be subject to storm water utility service charges except as provided in this chapter. A storm water utility service charge formula is available in the office of the storm water utility. The following areas are exempt from storm water utility service charges:

1. Property owned by the City of Carter Lake.

2. Streets, alley ways, and highways in the public and private domain are exempt from utility service charges or connection fees.
3. Railroad rights-of-way (tracks) shall be exempt from storm water service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges.

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TITLE IV – CULTURE AND RECREATION

CHAPTER 115

LIBRARY

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

115.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of seven resident members. All members are to be appointed by the Mayor with the approval of the Council.

115.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. 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.

115.05 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.
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 Library Director, and authorize the Library Director 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 Library Director, 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 Library Director, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.

6. Purchases. To select, or authorize the Library Director 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 by action against the Council.

(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.

115.06 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.

115.07 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.

115.08 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.

(Code of Iowa, Sec. 384.20 & 392.5)

115.09 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.

115.10 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)

115.11 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)

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

TITLE IV – CULTURE AND RECREATION

CHAPTER 116

PARK REGULATIONS

116.01 Purpose

116.02 Use of Drives Required

116.03 Fires

116.04 Littering

116.05 Parks Closed

116.06 Camping

116.07 Beer and Wine in City Parks and Public Property

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

(Code of Iowa, Sec. 364.12)

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

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

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

116.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 11:00 p.m. to 5:00 a.m.

116.06 CAMPING. No person shall camp in any portion of a park or public property except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

116.07 BEER AND WINE IN CITY PARKS AND PUBLIC PROPERTY. No person shall drink alcoholic beverages in any park or public property without first obtaining a permit from the City. The City has authority and discretion to issue the permit for consumption of beer and wine only, in Mabrey Park, Wavecrest Park, and other public facilities, between the hours of 8:30 a.m. and 5:00 p.m. of any weekday. The fee for the permit is as established by resolution of the Council.

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TITLE IV – CULTURE AND RECREATION

CHAPTER 117

PARKS AND RECREATION BOARD

117.01 Board Established
117.02 Organization
117.03 Powers and Duties

117.04 Appropriation
117.05 Reports
117.06 Council Approval

117.01 BOARD ESTABLISHED. There is hereby established a Parks and Recreation Board for the City, to be known as the Carter Lake Parks and Recreation Board, which is created to assist the Parks and Recreation Director and to advise the Council concerning the Parks and Recreation Department.

117.02 ORGANIZATION. The Board shall consist of seven full members, all residents of the City, appointed by the Mayor subject to the approval of the Council, for terms of five years. The Board shall include, in addition, two junior members, all residents of the City aged 16 to 18 years at the time of appointment, appointed by the Mayor subject to the approval of the Council, for terms of two years. The Board shall choose a Chairperson, Vice Chairperson and Secretary and any other officers it deems necessary on an annual basis from among the full members. Although not eligible to serve as officers, junior members shall be entitled to vote. Members shall serve without compensation, but may receive reimbursement for their actual expenses, which shall be subject to the approval of the Council. Vacancies shall be filled in the same manner as the original appointments.

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

1. Adopt such rules and regulations governing its organization and procedures as it deems necessary.
2. With prior Council approval, accept gifts of real property, personal property or mixed property, and devises and bequests.
3. Keep a record of all its proceedings.

117.04 APPROPRIATION. The Council shall provide for the annual budget for the Parks and Recreation Department.

117.05 REPORTS. The Parks and Recreation Director, with Board approval, shall make written reports to the Mayor and Council of the Board's activities from time to time, but not less than annually.

117.06 COUNCIL APPROVAL. Council approval or disapproval of any action of the Board shall require a two-thirds vote of the Council.

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TITLE V – BUILDING AND PROPERTY REGULATIONS

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TITLE V – BUILDING AND PROPERTY REGULATIONS ZONING, LAND USE AND SUBDIVISIONS

CHAPTER 120

PLANNING AND ZONING COMMISSION

120.01 Planning and Zoning Commission
120.02 Term of Office
120.03 Vacancies

120.04 Compensation
120.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

120.03 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)

120.04 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)

120.05 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)

ZONING, LAND USE AND SUBDIVISIONS

CHAPTER 121

ZONING REGULATIONS

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**TITLE V – BUILDING AND PROPERTY REGULATIONS
ZONING, LAND USE AND SUBDIVISIONS**

CHAPTER 122

SUBDIVISION REGULATIONS

122.01 SUBDIVISION AUTHORIZED. The City is authorized and empowered to plan, develop, construct and sell lots in a subdivision on a portion of the property described below and to engage engineers and other necessary persons to prepare the necessary documents and plats for said subdivision and to submit the subdivision for approval and do all other things necessary to complete the subdivision and sell lots in the subdivision and make any rules and regulations necessary for said subdivision, including covenants. The City is the owner of the property described as follows:

Lots 4, 6, 7, 8 and 9 in Auditors Subdivision of Section 17, Township 75, Range 44; and Lots 5 and 8, except that part of Lot 8 described in Warranty Deed recorded in Book 71, Page 8229, in Auditor's Subdivision of Section 20, Township 75, Range 44, except Railroad rights-of-way, in Carter Lake, Pottawattamie County, Iowa.

EDITOR'S NOTE		
Ordinance No. 301 entitled "Subdivision Regulation Ordinance of the City of Carter Lake," adopted March 16, 1982, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending Ordinance No. 301:		
ORDINANCE	ADOPTED	SUBJECT

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**TITLE V – BUILDING AND PROPERTY REGULATIONS
ZONING, LAND USE AND SUBDIVISIONS**

CHAPTER 124

DWELLING IN BARN, CAVES OR OUTBUILDINGS

124.01 Occupying Certain Structures Prohibited
124.02 Exception

124.03 Temporary Occupancy Permit

124.01 OCCUPYING CERTAIN STRUCTURES PROHIBITED. It is unlawful for any person to occupy, as a place of human habitation, except as provided in Section 124.02, any so-called outbuilding, garage, barn, cave, basement or other unfinished structure or unfinished dwelling house within the limits of the City.

124.02 EXCEPTION. In cases of emergency caused by fire, flood, sickness or other calamity, temporary habitation of such buildings and structures may be had, provided a permit has been obtained from the Building Official.

124.03 TEMPORARY OCCUPANCY PERMIT. The permit for temporary occupancy as a residence, as provided for in Section 124.02, shall not be for a period of more than thirty (30) days, but the same may be extended for thirty-day periods, for good cause, by the Building Official. Such permits and extensions thereof shall be issued without fees.

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TITLE V – BUILDING AND PROPERTY REGULATIONS ZONING, LAND USE AND SUBDIVISIONS

CHAPTER 125

TEMPORARY STRUCTURES

125.01 Definition
125.02 Compliance with Chapter Provisions
125.03 Permit Required
125.04 Permit Application
125.05 Permit Fees

125.06 Compliance with Codes
125.07 Removal
125.08 Violations
125.09 Revocation of Permit

125.01 DEFINITION. “Temporary structure” means any shed, structure, building, trailer (which includes but is not limited to semi-trailers and mobile home type trailers), tent, or enclosure of any kind used for storage, commercial, or business or residential purposes which any person or business intends to place on the same lot with, or on any lot immediately adjacent to, any permanent structure used for business or commercial or residential purposes, on a temporary basis. Permanent structures need to follow all code ordinances, including accessory building codes and ordinances. This would include “temporary portable storage container,” which is defined as a large container used for the temporary storage of commercial, industrial, or residential household goods, and which does not contain a foundation or wheels for movement. Any storage container that will be in place more than six (6) months must be a building and meet the requirements of the Carter Lake Building Code and this Code of Ordinances. This chapter is not intended to be applicable to a location in a nonresidential area whose main business is the sale or rental of storage containers.

125.02 COMPLIANCE WITH CHAPTER PROVISIONS. No temporary structure shall be erected, constructed, placed, or otherwise allowed to remain in place except as hereinafter provided.

125.03 PERMIT REQUIRED. No temporary structure shall be erected, constructed, or placed upon any commercial or business or residential property without first obtaining a permit from the City. All permits are subject to approval by the Building Inspector. Further, the Building Inspector may impose certain reasonable requirements as may be required to keep the temporary structure from becoming unsightly to the surrounding properties.

125.04 PERMIT APPLICATION. Prior to seeking approval, an applicant shall file a permit application with the Clerk stating:

1. The name and address of the person or business seeking the permit.
2. A particular description of where the proposed temporary structure will be erected, constructed, or placed; including a site plan with dimensions.
3. The need for such structure, which need shall constitute an acceptable purpose, such as storage during a construction or demolition project, short term storage for persons moving into a residence, etc.
4. The period of time the proposed structure will be present on the property.

5. A particular description, including the dimensions, of the temporary structure to be erected, constructed, or placed upon the property.

125.05 PERMIT FEES. Upon approval by the Clerk and Building Inspector, and payment of any required permit fee, the Clerk shall issue a permit to the applicant. The permit for a business or commercial property shall be for a period of thirty (30) days and shall authorize the erection, construction, or placement of a temporary structure on the property described in the application. The cost of the business or commercial class permit is \$50.00 per month. The duration of the permit may be extended twice, providing an additional 30 days for each extension authorized. Each extension shall cost \$50.00, which must be paid in advance of the expiration of the prior permitted period. The permit for a residential property shall permit the placement of a storage container on the property described in the application for a period of 30 days. The duration of the permit may be extended up to five times, providing an additional 30 days for each extension authorized. The cost for a residential class permit is a graduating scale as follows:

First 30 days container is on site	\$ 0.00
Second 30 days container is on site	\$ 20.00
Third 30 days container is on site.....	\$ 40.00

125.06 COMPLIANCE WITH CODES. Any such temporary structure erected, constructed, or placed upon a property shall comply with all applicable provisions of this Code of Ordinances, including the fire, electrical, and building codes. Containers must be placed on a hard-surfaced area and shall be located on the owner's lot. If it is not currently on hard surface, it shall be placed on hard surface. No part of any container shall be located on any public property or in the right-of-way. Any temporary structure shall at all times be kept in good condition and shall not be in a state of neglect, including (but not limited to) substantial paint peeling, rust holes or accumulations or missing or broken parts. The temporary structure shall not obstruct sight-lines of driveways or intersections, or impede sidewalks.

125.07 REMOVAL. Any such permitted temporary structure shall be removed from the property at the expiration of the time period defined in the permit or upon revocation of said permit.

125.08 VIOLATIONS. A person who violates any provision of this chapter shall be guilty of a municipal infraction. Each day said violation continues shall be considered a separate offense.

125.09 REVOCATION OF PERMIT. A permit may be revoked by the City for a violation of any of the provisions of this chapter or any other ordinances of the City or the laws of the United States or the State of Iowa.

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TITLE V – BUILDING AND PROPERTY REGULATIONS BUILDING STANDARDS

CHAPTER 130

DANGEROUS BUILDINGS

130.01 Enforcement Officer
130.02 General Definition of Unsafe
130.03 Unsafe Building
130.04 Notice to Owner

130.05 Conduct of Hearing
130.06 Posting of Signs
130.07 Right to Demolish; Municipal Infraction
130.08 Costs

130.01 ENFORCEMENT OFFICER. The Building Inspector is responsible for the enforcement of this chapter.

130.02 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])

130.03 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.

130.04 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.

130.05 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.[†]

130.06 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 CARTER LAKE, 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.

130.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

130.08 COSTS. Costs incurred under Section 130.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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TITLE V – BUILDING AND PROPERTY REGULATIONS

BUILDING STANDARDS

CHAPTER 131

BUILDING CODE

131.01 Short Title	131.19 Building Permit Fees
131.02 Purpose	131.20 Inspection Required
131.03 Adoption of State Building Code	131.21 Lot Survey
131.04 Copies Filed	131.22 Asphalt and Concrete Installation
131.05 Building Official	131.23 Concealed Work
131.06 Board of Appeals	131.24 Inspection Record Card
131.07 Permits Required	131.25 Approvals Required
131.08 Emergency Work	131.26 Required Inspections
131.09 Permit Applications	131.27 Maintenance
131.10 Plans and Specifications	131.28 Special Inspections
131.11 Plan Review	131.29 Special Inspector
131.12 Plan Approval	131.30 Approved Fabricators
131.13 Partial Plans	131.31 Request for Inspection
131.14 Retention of Plans	131.32 Access
131.15 Issuance of Permits	131.33 Power, Fuel and Water Supply Connections
131.16 Validity	131.34 Certificate of Occupancy
131.17 Expiration of Permit	131.35 Violations
131.18 Suspension or Revocation	

131.01 SHORT TITLE. This chapter shall be known as the Carter Lake, Iowa, Building Code, and may be cited as such.

131.02 PURPOSE. The purpose of this chapter is to protect public health, property, welfare and safety by establishing reasonable minimum requirements for the construction, repair, moving, demolition and use of buildings, structures and related equipment, fixtures and systems.

131.03 ADOPTION OF STATE BUILDING CODE. Pursuant to published notice and public hearing, as required by law, the *Iowa State Building Code*, promulgated pursuant to Chapter 103A of the *Code of Iowa*, including the one- and two-family dwelling code, is hereby adopted by reference.

1. Adoption of *State Plumbing Code*. Chapter 1, Chapters 2 to 10, and Chapters 13 to 15 of the *Uniform Plumbing Code*, 2000 Edition, as published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789-2825, are hereby adopted by reference with amendments as the *State Plumbing Code* authorized by *Code of Iowa* Section 135.11(5), 101.3, 101.5, 103.8, 101.4, 103.5.3.

2. Adoption of *Fuel Gas Code*. Fuel gas piping shall comply with the requirements of ANSI/NFPA 54, *National Fuel Gas*, 1999 Edition. Liquefied petroleum gas facilities and appliances shall comply with the requirements of ANSI/NFPA 58, *Standard for the Storage and Handling of Liquefied Petroleum Gases*, 2001 Edition. The previous Codes and Standards are incorporated herein as the City of Carter Lake Codes and Standards.

3. Adoption of *Property Maintenance Code*. The *International Property Maintenance Code*, 2006 Edition, as published by the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, and the Southern Building Code Congress International, Inc., be and is hereby adopted as the *Property Maintenance Code* of the City of Carter Lake for the control of buildings and structures as herein provided. This code is established to set minimum regulations governing the conditions and maintenance of all properties, buildings, and structures, by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures.

131.04 COPIES FILED. Official copies of the aforementioned Iowa State Building Code, the standard codes adopted therein, and a certified copy of this chapter are on file in the office of the Clerk. Certified copies of this chapter are also on file in the office of the State Building Code Commissioner and in the office of the Secretary of State.

(Code of Iowa, Sec. 103A.12 and Sec. 380.8)

131.05 BUILDING OFFICIAL. The Building Official is hereby authorized and directed to enforce all the provisions of this chapter. The Building Official shall have the following powers and duties:

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

1. Annual Report. The Building Official shall submit a report to the Council not less than once a year, covering the administration and enforcement of this chapter during the preceding period. Said report shall incorporate a summary of recommendations as to desirable amendments to this chapter.
2. Records. The Building Official shall keep a permanent, accurate account of all fees and other moneys collected and received under this chapter the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.
3. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in this chapter, the Building Official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this chapter; provided, if such building or premises is occupied, the Building Official shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.
4. Stop Orders. Whenever any work is being done contrary to the provisions of this chapter, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

5. Occupancy Violations. Whenever any structure is being used contrary to the provisions of this chapter, the Building Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of this chapter; provided, however, in the event of an unsafe building the procedures for the abatement of a nuisance shall apply.
6. Authority to Condemn Equipment. Whenever the Building Official learns or ascertains that any equipment, as defined in this chapter, has become hazardous to life, health, or property, the Building Official shall order, in writing, that such equipment be restored to a condition of safety or be dismantled or removed from its present location. The written notice shall fix a time limit for compliance with such order. No person shall use or maintain the defective equipment after receiving such notice.
7. Liability. The Building Official or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the City in the discharge of duties, shall not thereby become liable personally and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of duties. Any suit brought against the Building Official or employees, because of such act or omission performed by them in the enforcement of any provisions of this chapter, shall be defended by the City until final termination of the proceedings.
8. Cooperation of Other Officials. The Building Official may request, and shall receive so far as may be necessary in the discharge of any duties, the assistance and cooperation of other officials of the City.

131.06 BOARD OF APPEALS. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this chapter, there shall be and is hereby created a Board of Appeals, consisting of five (5) members, who shall be the members of the Council. The Building Official shall be an ex officio member and shall act as secretary of the board. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a copy to the appellant and a copy to the State Building Code Commissioner.

(Code of Iowa, Sec. 103A.13; IAC 630-5.3[5])

131.07 PERMITS REQUIRED. Permits shall be required as follows:

1. Building. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the City, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official.
2. Mechanical. No person shall install, alter, reconstruct or repair any heating, ventilating, cooling, or refrigeration equipment unless a permit therefor has been obtained from the Building Official except as otherwise provided in this chapter. A permit is not required for the following:
 - A. Any portable heating appliance.
 - B. Any portable ventilating equipment.

- C. Any portable cooling unit.
 - D. Any steam, hot, or chilled water piping within any heating or cooling equipment regulated by this chapter.
 - E. Replacement of any component part or assembly of an appliance which does not alter its original approval and complies with other applicable requirements of this chapter.
 - F. Any portable evaporative cooler.
 - G. Any refrigerating equipment which is a part of the equipment for which a permit has been issued pursuant to the requirements of this chapter.
 - H. Any unit refrigerating system.
3. Plumbing. No person shall install, alter, reconstruct or repair any plumbing or drainage system or part thereof as defined in the plumbing code adopted by this chapter unless a permit therefor has been obtained from the Building Official.
4. Electrical. No person shall install, alter, reconstruct or repair any electrical conductor or equipment subject to the provisions of the electrical code adopted by this chapter unless a permit therefor has been obtained from the Building Official.
5. Penalty. If any person commences any work or construction prior to obtaining a permit, the penalty shall be as follows:
- A. First time – Warning and purchase of permit within two business days.
 - B. Subsequent times – \$100.00 penalty and double amount for permit fees.

131.08 EMERGENCY WORK. In emergency situations, work may be initiated without first submitting a permit application and receiving a permit. However, a permit application must be submitted within a reasonable time after the passage of the critical period. With this one exception, all emergency work must be one in accordance with this chapter.

131.09 PERMIT APPLICATIONS. To obtain any required permit, the applicant shall first file an application therefor on forms provided by the Building Official. Every applicant for a permit shall state in writing on the application form the character of the work proposed to be done, the amount and kind of work to be performed therewith, together with any such information pertinent thereto as may be required by the Building Official or the Council. Each application shall contain all information necessary to the lawful enforcement of the provisions of this chapter.

131.10 PLANS AND SPECIFICATIONS. With each application for a building permit, and when required by the Building Official for enforcement of any provisions of this chapter, two sets of plans and specifications shall be submitted. The Building Official may require such plans and specifications to be prepared and designed by an engineer or architect licensed by the State of Iowa to practice as such. Plans and specifications when required shall be of sufficient detail and clarity to show that the proposed work will conform to the provisions of this chapter and of all applicable laws, ordinances, rules, regulations and orders. The Building Official may waive the filing of plans and specifications with an application for the following:

1. One-story buildings of conventional wood stud construction with an area not exceeding 600 square feet.
2. Private garages, carports, sheds and agricultural buildings of conventional wood stud construction; however, carports shall meet the following minimum requirements:
 - A. Carports shall be anchored to the ground to comply with the manufacturer recommendations to withstand wind speeds of up to 90 miles per hour.
 - B. Carports shall be designed for thirty (30) pounds per square foot of roof snow load.
 - C. No tarps, cloth or similar materials shall be allowed as a roof or sides of the carport.
3. Small and unimportant work.

131.11 PLAN REVIEW.

1. Review by Building Official. All required plans and specifications for residential, multi-family, commercial, industrial and manufacturing building projects shall be reviewed by the Building Official for completeness and compliance. Except for residential projects (single-family and two-family structures), the Building Official will forward these plans and specifications on to other City departments or personnel to determine whether or not such plans and specifications are in compliance with the laws and ordinances under their jurisdictions.
2. Review by Planning and Zoning Commission. The Planning and Zoning Commission shall review the plans and specifications for multi-family, commercial, industrial and manufacturing building projects before the Building Official approves the building permit. Included in this class of construction are all proposed tenant-finished projects, residential subdivisions and multi-family dwellings of more than three units. Within thirty (30) days after receiving the Building Official's report, checklist and complete plans (approved by the City's Engineer Firm or other licensed firm, if appropriate, and by all appropriate City departments), the Planning and Zoning Commission shall convene to review the proposed plans and specifications and make its recommendations. Recommendations by the Commission shall be considered by the Building Official before approval.

131.12 PLAN APPROVAL. If the plans and specifications as filed appear to conform to the requirements of this chapter and other laws and ordinances, the Building Official shall endorse in writing or stamp on all sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified or altered without authorization from the Building Official, and all work shall be done in accordance with the approved plans. No building permits are to be issued by the Building Official until the final plat for the subdivision has been approved by the Planning and Zoning Commission.

131.13 PARTIAL PLANS. The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved provided adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter.

The holder of such permit shall proceed at the holder's own risk without assurance that the permit for the entire building or structure will be granted.

131.14 RETENTION OF PLANS. One set of approved plans, specifications, and computations shall be retained by the Building Official for a period of not less than ninety (90) days from date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress.

131.15 ISSUANCE OF PERMITS. When the Building Official is satisfied that the work described in an application for a permit and the plans and specifications filed therewith, if required, conform to the requirements of this chapter and other pertinent laws and ordinances including any applicable soil erosion control plans, and that the fees as specified have been paid in full, the Building Official shall issue a permit therefor to the applicant.

131.16 VALIDITY. The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorizes is lawful. The issuance of a permit based upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations being carried on thereunder when in violation of this chapter or of any other chapter of this Code of Ordinances.

131.17 EXPIRATION OF PERMIT. Every permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within thirty (30) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of sixty (60) days. If the work described in any building permit for newly constructed structure which is to be inhabited has not been substantially completed within one year after the date of the issuance thereof, or if the work described in any building permit which does not involve living quarters or to be inhabited has not been completed within six (6) months, said permit shall expire and be canceled by the Building Official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless or until a new building permit has been obtained. An extension of time may be granted only under unusual circumstances beyond the permit expiration date at the discretion of the Building Official. Before such work can be recommenced, a new permit shall be first obtained, and the fee therefore shall be equal to a structural permit, provided no changes have been made or will be made in the original plans and specifications for such work. The expiration date of a building permit may be established for a period longer than one year if established at the time that such permit is issued by the City.

131.18 SUSPENSION OR REVOCATION. The Building Official may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this chapter.

131.19 BUILDING PERMIT FEES.

1. There shall be paid to the City for the issuance of any building permit, for any and all types of construction, demolition or remodeling, a fee as established by resolution of the City Council. The schedule of fees shall be periodically amended by resolution as deemed appropriate by the Council. The City Clerk shall be responsible for maintaining an accurate list of the permit fees including the dates when the fees were adopted.
2. The payment of all fees and charges shall be made at the office of the Clerk where receipts shall be issued for all amounts paid. If payment is made in the form of a check and that check is subsequently dishonored, the City may deem that the permit fee has not been paid and shall also be authorized to charge the applicant with a returned check fee of \$30.00.

131.20 INSPECTION REQUIRED. All construction or work for which a permit is required shall be subject to inspection by the Building Official, and certain types of construction shall have continuous inspection by special inspectors, as specified in Section 131.28.

131.21 LOT SURVEY. A survey of the lot may be required by the Building Official to verify compliance of the structure with approved plans.

131.22 ASPHALT AND CONCRETE INSTALLATION. No asphalt or concrete shall be poured or installed on any lot in the City without there first being a permit issued for such work. The permit application must be signed by the property owner, shall include a description of the area of property to be covered by the asphalt or concrete, and shall state when said work is to be completed. A fee, as established by resolution of the Council, shall be charged for said permit. If any part of the City right-of-way is to be covered by the project, said portion covering the City right-of-way shall be covered by concrete only and not by asphalt.

131.23 CONCEALED WORK. That portion of any work or equipment intended to be concealed by any permanent portion of the building shall not be concealed until inspected and approved.

131.24 INSPECTION RECORD CARD. Work requiring a permit shall not be commenced until the permit holder or agent shall have posted an inspection record card in a conspicuous place on the front premises and in such position as to allow the Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained in such position by the permit holder until the certificate of occupancy or satisfactory completion has been issued.

131.25 APPROVALS REQUIRED. No work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the written approval of the Building Official. Such written approval shall be given only after an inspection shall have been made of each successive step in the construction as indicated by each of the inspections required in Section 131.26. There shall be a final inspection and approval of all buildings and work when ready for occupancy and/or completed.

131.26 REQUIRED INSPECTIONS. The Building Official, upon notification from the permit holder or agent, shall make the following applicable inspections and shall either

approve that portion of the work as completed or shall notify the permit holder or agent wherein the same fails to comply with this chapter.

1. Reinforcing Steel or Structural Framework. Reinforcing steel or structural framework shall not be covered or concealed without first obtaining the approval of the Building Official.
2. Foundation Inspection. Inspection shall be made after trenches are excavated and forms erected and when all materials for the foundation are delivered on the job. Where concrete from a central mixing plant (commonly termed "transit mixed") is to be used, materials need not be on the job.
3. Frame Inspection. Inspection shall made after the roof, all framing, fire blocking, and bracing are in place and all pipes, chimneys, and vents are complete.
4. Mechanical Inspection. Inspection shall be made before concealment or use.
5. Plumbing inspection. Inspection shall be made before concealment or use.
6. Electrical Inspection. Inspection shall be made before concealment or use.
7. Lath and/or Wallboard Inspection. Inspection shall be made after all lathing and/or wallboard, interior and exterior, is in place; but before any plastering is applied or before wallboard joints and fasteners are taped and finished.
8. Other Inspections. In addition to the required inspections specified above, the Building Official may make or require any other inspections or any other construction or work to ascertain compliance with the provisions of this chapter and other laws which are enforced by the Building Official. If it is necessary for the Building Official to request a review of any plans submitted by an applicant or if the Building Official needs to request the services of special inspector at any phase of the construction, the cost of the Building Official's consultation with and any cost incurred by the City for their services of such special inspector shall be passed on to the applicant. If a bill is submitted to the applicant and/or contractor, and payment is not made forthwith, the Building Official shall be entitled to withhold the granting of a Certificate of Occupancy until said bill is paid in full. If the applicant or contractor believes the bill is unreasonable or unnecessary, the contractor may appeal the Building Official's position to the City Council by written request within ten (10) days of the submission of the bill by the Building Official to the applicant or contractor. The Council shall grant a hearing on the request as soon as practicable. If a special meeting is necessitated to determine the fair and reasonableness of the bill, the applicant shall be required to pay the cost of any special meeting of the Council. These extra fees incurred by the Building Official may include but shall not be limited to consultations with or reviews of plans by licensed engineers, architects and surveyors.
9. Reinspections. Reinspections, and fees therefor, may be required as follows:
 - A. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is required is not complete or when corrections called for are not made.
 - B. This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this chapter, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

C. Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.

D. To obtain a reinspection the applicant shall file an application therefor in writing upon a form furnished for that purpose, and pay the reinspection fee in accordance with paragraph A of this subsection.

E. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

10. Final Inspection. Inspection shall be made after work is completed and/or the building ready for occupancy.

131.27 MAINTENANCE. All buildings or structures both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this chapter in a building or structure when erected, altered, or repaired, shall be maintained in good working order. The owner or designated agent shall be responsible for the maintenance of buildings and structures. For the purpose of determining compliance with this section the Building Official may cause any structure to be reinspected.

131.28 SPECIAL INSPECTIONS. In addition to the inspections to be made as specified in Section 131.26, the owner or agent shall employ a special inspector who shall be present at all times during construction on the following types of work:

1. Concrete. On concrete work when the structural design is based on compressive strength of concrete in excess of 2,000 p.s.i.
2. Masonry. Masonry work shall have special inspection when required in the Uniform Building Code.
3. Welding. On all structural welding.
4. Reinforced Gypsum Concrete. When cast-in-place Class B reinforced gypsum concrete is being mixed or deposited.
5. Special Cases. On special construction or work involving unusual hazards or requiring constant inspection.
6. Exception. The Building Official may waive the requirement for the employment of a special inspector if the Building Official finds that the construction or work is such that no unusual hazard exists.

131.29 SPECIAL INSPECTOR. The special inspector shall be a qualified person approved by the Building Official. The special inspector shall furnish continuous inspection on the construction and work requiring the special inspector's employment. The special inspector shall report to the Building Official in writing, noting all ordinance violations and other information as required.

131.30 APPROVED FABRICATORS. Special inspections required by Section 131.28 and elsewhere in this chapter shall not be required where the work is done on the premises of a fabricator approved by the Building Official to perform such work without special inspection.

The certificate of approval shall be subject to revocation by the Building Official if it is found that any work done pursuant to the approval is in violation of this chapter.

131.31 REQUEST FOR INSPECTION. The Building Official may require that every request for inspection be filed at least one day before such inspection is desired. Such request may be in writing or by telephone at the option of the Building Official.

131.32 ACCESS. It shall be the duty of the person requesting inspection to provide access to and means for proper inspection. The Building Official shall not be liable for any expense entailed in the removal or replacement of any material required to allow the inspection.

131.33 POWER, FUEL AND WATER SUPPLY CONNECTIONS. Systems and/or equipment regulated by this chapter shall not be connected to the power, fuel or water supply until authorized by the Building Official, except that this section shall not be considered to prohibit the operation of any equipment installed to replace existing equipment serving an occupied portion of a building in the event a request for inspection of such equipment has been filed with the Building Official not more than forty-eight (48) hours after such replacement work is completed and before any portion of such equipment is concealed by any permanent portion of the building.

131.34 CERTIFICATE OF OCCUPANCY. No building or structure for which a certificate of occupancy is required by the Iowa State Building Code Administration Section shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein.

(Code of Iowa, Sec. 103A.19[4])

1. Change in Use. Changes in the character or use of a building shall not be made except as specified in the Iowa State Building Code adopted by this chapter.
2. Certificate Issued. After final inspection when it is found that the building or structure complies with the provisions of this chapter, the Building Official shall issue a certificate of occupancy which shall contain the following:
 - A. The building permit number.
 - B. The address of the building.
 - C. The name and address of the owner.
 - D. A description of that portion of the building for which the certificate is issued.
 - E. A statement that the described portion of the building complies with the requirements of this chapter for group and division of occupancy and the use for which the proposed occupancy is classified.
 - F. The name of the Building Official.
3. Temporary Certificate. A temporary certificate of occupancy may be issued by the Building Official for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.
4. Posting. The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official.

131.35 VIOLATIONS. It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.

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TITLE V – BUILDING AND PROPERTY REGULATIONS BUILDING STANDARDS

CHAPTER 132

DEMOLITION OF BUILDINGS

132.01 Permit Required
132.02 Application
132.03 Issuance of Permit
132.04 Expiration
132.05 Suspension or Revocation
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132.12 Enforcement
132.13 Violations

132.01 PERMIT REQUIRED. No person shall demolish or wreck a building within the City unless such person shall have obtained a permit therefor from the Building Department in compliance with the provisions of this chapter and the Carter Lake Building Code.

132.02 APPLICATION. To obtain a permit the applicant shall first file an approved certificate of a contractor's public liability insurance policy written by a company authorized to transact business in the State of Iowa, for the principal sum of not less than \$150,000 liability to any one person and \$100,000 personal injury liability on account of any one accident, and \$100,000 liability for property damage. Such policy shall be written in accordance with the standard form in general use and shall carry an endorsement protecting the City, as its interests may appear, as the result of any accident or injury for which it might become in any manner liable due to the acts of the insured or its employees in the demolition of buildings. Such policy shall carry a further endorsement to the effect that if the policy is canceled the insurance company shall notify the Building Department by registered mail not less than ten days prior to the date of cancellation. Said certificate of insurance shall be filed annually on or before January 1 each year. Applicant must file an application in writing on a prescribed form as furnished by the Building Department. All approvals required on said form shall be obtained prior to issuance of the permit.

132.03 ISSUANCE OF PERMIT. If the Building Official is satisfied that the certificate of insurance is valid and of full force and effect for the duration of the period of the permit, and that the work described in the application conforms to the requirements of this chapter and with the provisions of the Carter Lake Building Code, the Building Official shall issue a permit therefor to the applicant. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of the Carter Lake Building Code. No permit presuming to give authority to violate or cancel the provisions of this chapter or Building Code shall be valid, except insofar as the work or use which is authorized as lawful.

132.04 EXPIRATION.

1. Every permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become invalid if the demolition or wrecking of the building or structure or the use of the public property is not accomplished during

the period of time which is stated on the permit. Such work or use of public property shall cease upon expiration of the permit and shall not be recommenced until a new permit has been obtained by revising or renewing the original application and by the payment of a new fee as specified in the Building Code.

2. An expiration date shall be assigned to each demolition or wrecking permit by the Building Department when the permit is issued. Such expiration date shall provide for a reasonable period of time for all demolition, thorough cleanup, backfilling, compacting and uniform grading of the site. If an expiration date is not shown on the permit when issued, such permit shall expire by limitation and become invalid 30 days after the date of issuance. Each permit may be renewed provided that a fee is paid for each such renewal in the same amount as the original permit fee.

132.05 SUSPENSION OR REVOCATION. The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error, or on the basis of incorrect information supplied, or in violation of any ordinance.

132.06 PERMIT FEES; WAIVER. A fee for each permit shall be paid to the Building Official as determined by resolution by the Council. Where the demolition of a building, for which a permit is required by this chapter, is started prior to obtaining said permit, the fees above specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter and the Carter Lake Building Code in the execution of the work or from other fees or criminal penalties. No fee shall be required for demolition of any building or structure owned and used exclusively by the City.

132.07 TRANSFER OF PERMIT PROHIBITED. A demolition or wrecking permit shall not be transferable from one building or building site to another building or building site or from one person to another.

132.08 RESPONSIBILITIES OF WRECKING CONTRACTOR OR PERMITTEE.

1. Temporary Fence. A temporary fence shall be erected around an unsafe excavation, dangerous building or structure to prevent access to the public. Such fence shall be:

- A. At least four feet high;
- B. Consistently restrictive from top to grade;
- C. Without horizontal openings or indentation wider than two inches;
- D. Erected before demolition begins and not removed until the basement is filled.

2. Inspection. The permittee shall obtain inspection and approval from the Building Department prior to backfilling any excavations, holes or depressions on the demolition site. Excavations, cellar holes, basement holes, abandoned cisterns or other depressions in the wrecking site shall be filled and compacted with sand or earthen fill and a tillable layer of topsoil spread over the entire lot to a uniform, natural grade consistent with established adjacent grades. (No fly ash or equal.) Adjacent grades, when referred to in these specifications, means approximate existing elevation of the ground surrounding a basement, or other excavated or depressed area,

at the distance of five feet outside the area, particularly when the existing ground has previously been graded up so as to slope away from the area.

3. Finishing Filled Areas. The permittee shall assure that all filled areas are adequately compacted or tamped to match the density, stability and grade of the adjacent undisturbed soils and to prevent the settling of the backfill and the ponding of surface water.

4. Cutting and Capping of Utilities. With regard to utilities which need to be cut and capped during the process, permittee must comply with the following rules:

A. A licensed plumber must cut and cap water and sewer at the main lines.

B. A licensed plumber must request the utility company and the City Building Inspector to inspect the disconnection of the water before it is covered. In this regard, the permittee must give adequate notice to the City prior to wrecking the building.

C. The local electric company must cut off the electrical service and remove the meter from the property.

D. The local gas company must cut off the gas and remove the meter from the property.

5. Additional Backfilling or Grading. In the event that the backfill materials are not of a consistency and density to produce, support and maintain a stable, uniform grade for at least sixty days after the date when the job is reported "finished" or if the backfill materials were frozen when used, causing unacceptable settling during the first sixty days after the ground is free of frost, the permittee shall remedy such settling by additional tamping, refilling, compacting and re-grading in conformance with the standards set forth in this section.

6. Protection and Restoration of Adjacent Property. The permittee shall protect all adjacent property, private or public, to avoid damage or injury to same, and shall repair or replace any structures, vegetation or topography which was destroyed, damaged, moved or changed in conjunction with, or by reason of, the wrecking operation. Such repairs, replacement or restitution shall be based upon and consistent with the grade, appearance and state of repair which existed prior to the starting of the demolition work.

7. Cleanup. All pieces, parts, scraps, debris, rubbish, wood and organic materials from a structure or part of a structure in the process of being demolished shall be cleaned up and removed from the premises weekly. Final cleanup after the structure is demolished shall include complete and thorough removal from the premises of all parts or pieces of the building, its contents and its furnishings, including all debris, organic materials, rubbish, wood, concrete, and masonry rubble in their entirety; e.g.:

A. Concrete or brick floors of basements, or of areaways, stairways, stairwells or depressed structures shall be completely removed.

B. Concrete slabs on ground including floors of buildings with no basement, entrance slabs, patios, garages or shed floors, and similar exterior slabs whether of concrete, masonry, rock or stone shall be broken up and removed from the site. All hazardous open pits and recesses shall be filled with thoroughly tamped earth or mortar, whichever is required to completely

eliminate the hazard. Sewers, stacks, or other sanitary ducts extending to or through the floors and slabs shall be filled as provided.

C. When required, all walks and drives within parcels shall be broken up and removed from the site.

D. When required, retaining walls within or on the property line of parcels shall be removed completely. When retaining walls are required to be removed, the embankment shall be cut back to a slope of two horizontal to one vertical, or as permitted by remaining sidewalks, etc.

132.09 ABANDONED OR UNSAFE PROJECTS. When a wrecking project has been abandoned or is found to be unsafe, the Building Official may order the unsafe conditions corrected, the building boarded up and the premises barricaded. Upon failure of the owner or owner's agent to comply with the order of the Building Official within seven days, the Building Official, after notice and opportunity for hearing, may cause said building or structure to be demolished to the extent of the work covered by the wrecking permit, the premises cleaned and suitable drainage grades established, the cost of such demolition, cleaning and grading to be assessed to the property as provided by the *Code of Iowa*.

132.10 INSURANCE FOR USE OF STREETS OR PUBLIC PROPERTY. Where the public property or streets are to be used or occupied during the operations of demolishing a building or structure, or where such public property is required to be protected in compliance with the Carter Lake Building Code, a certificate of insurance with the aforementioned limits shall be first filed with the City Building Department; said certificate shall be in the form recognized by the City and acceptable by the Building Department and shall be conditioned that the principal will indemnify and save harmless the City, its officials or any of its employees responsible for issuing permits for the use of streets or public property, and successors, from and on account of any and all judgments, claims, costs, expenses, attorney fees or liabilities of any kind whatsoever which the City and any or all of the persons above enumerated may sustain or which may be recovered from it or them, from or by reason of the issuance of each such permit, or by reason of any act, neglect or thing done under or by virtue of the authority given in any such permit, or in any way connected with, relating to, or growing out of any work performed by said principal, or agents and employees, or any subcontractor or anyone in any way under the principal's supervision and direction.

1. Said principal shall in all respects be bound hereby to all applicable requirements and provisions required by the Building Code of the City, and by ordinances and regulations now existing and hereafter enacted by the City.

2. Said principal shall comply with and faithfully observe and obey all applicable regulations and ordinances of the City now existing or hereafter enacted affecting or relating to the use of streets or public property.

3. Said principal or surety shall pay all damages or loss to the City that may occur from any act or negligence of said principal or agents or employees, anyone under said principal's supervision or direction, or any subcontractor, as a result of the use of streets or public property.

4. Said principal shall fully protect any and all work, space, materials or equipment relating to the use of streets or public property undertaken by principal or under the principal's direction and supervision or by any agent or employee, or by any subcontractor.

5. Said principal shall pay any penalties that may be imposed during the period of any permit now issued or to be issued during the effective term of the certificate of insurance. The aforementioned certificate of insurance shall be filed annually on or before January 1 each and every year.

132.11 INSURANCE FOR WRECKING BUILDINGS OR STRUCTURES. Where streets or public property are to be occupied or the general public endangered during the operations of wrecking or demolishing a building or a structure, a certificate of insurance in the amount of \$250,000 public liability to any person or \$500,000 liability to more than one person on account of any one occurrence, and \$100,000 property damage shall first be filed with the City prior to issuance of the wrecking permit. Said certificate shall be on a form recognized by the City and acceptable to the Building Department and shall be conditioned that the wrecking contractor will indemnify and save harmless the City, its officials and its employees who issue permits for wrecking buildings, and the successors, from and on account of any and all judgments, claims, costs, expenses, attorney fees or liabilities of any kind whatsoever which said City and any or all of the persons above enumerated may sustain or which may be recovered from it or them from or by reason of the issuance of each such permit, or by reason of any act, neglect or thing done under or by virtue of the authority given in any such permit, or in any way connected with, relating to, or growing out of any work performed by said principal, or agents and employees, and any sub-contractor or anyone in any way under the principal's direction or supervision.

1. Said principal shall comply with and faithfully observe and obey all applicable regulations and ordinances of the City now existing or hereafter enacted and all other applicable laws now existing or hereafter enacted, affecting, or relating to the wrecking of buildings.
2. Said principal shall pay all damages or loss to the City that may occur from any act, or negligence of said principal, or agents or employees, anyone under the principal's direction or supervision, or any sub-contractor, as a result of wrecking of buildings by said principal.
3. Said principal shall properly perform and execute and fully protect any and all work, space, materials, or equipment relating to the wrecking of buildings undertaken by principal or under the principal's direction or supervision or by any agent or employee, or by any sub-contractor.
4. The certificate of insurance for wrecking buildings shall be for a term of one year, re-filed on or before January 1 each and every year.

132.12 ENFORCEMENT. The Building Official is hereby authorized and directed to enforce all of the provisions of this chapter.

132.13 VIOLATIONS. Any person violating any of the provisions of this chapter shall be deemed guilty of a separate offense for each and every day during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

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TITLE V – BUILDING AND PROPERTY REGULATIONS

BUILDING STANDARDS

CHAPTER 133

DIRT HAULING

133.01 Permit Required
133.01A Deposit Required
133.02 Application For Permit
133.03 Permit Fee and/or Deposit
133.04 Issuance of Permit
133.05 Contents of Permit
133.06 Inspection of Permit

133.07 Duty to Prevent Spilling of Dirt; Duty to Clean Street
133.08 Protection of Sidewalks
133.09 Cleaning of Street By City
133.10 Site Plan With Final Grades
133.11 Violation

133.01 PERMIT REQUIRED. It is unlawful for any person except authorized City employees or persons contracted by the City to haul or authorize to be hauled any earth in excess of ten (10) cubic yards over, across, or along any paved street or alley in the City without a permit from the Building Inspector to do so.

133.01A DEPOSIT REQUIRED. It is unlawful for any person except authorized City employees or persons contracted by the City to excavate earth from front yards or City right-of-ways to access water lines or sewer lines for connections, disconnects, new service, or repairs without first placing a deposit with the City. Deposit is refundable upon inspection of cleanup per Section 133.09.

133.02 APPLICATION FOR PERMIT. Any person desiring a permit required by the provisions of this chapter shall make application therefor to the Building Inspector. Such application shall contain:

1. The place from which the earth is to be removed;
2. The place to which the earth is to be hauled; and
3. An approximate estimate of the number of cubic yards to be moved.

The Building Inspector shall require proof of contractor's liability insurance coverage of the applicant in cases where dirt hauling will occur over City streets and City rights-of-way.

133.03 PERMIT FEE AND/OR DEPOSIT. Before any permit is issued under the provisions of this chapter, the applicant therefor shall purchase a permit and place a deposit with the City. The fees shall be as follows:

1. \$25.00 permit fee.
2. \$200.00 deposit (refundable) [†]

133.04 ISSUANCE OF PERMIT. Upon compliance with the requirements of this chapter, the Building Inspector shall issue a permit required by this chapter to the applicant therefor.

[†] See Section 133.09.

133.05 CONTENTS OF PERMIT. Each permit issued under the provisions of this chapter shall contain:

1. The streets or portions of streets over, across or upon which dirt may be hauled; and
2. The time when such work will be permitted.

In no event shall a dirt hauling permit exceed six (6) months in duration.

133.06 INSPECTION OF PERMIT. A permit issued under the provisions of this chapter shall be subject to inspection upon demand by any City officer or employee designated by the Building Inspector to look after work performed under this chapter. If necessary, the Building Inspector shall provide directions to the permit holder of the appropriate steps to provide dust control during the project. All reasonable measures will be taken to ensure a minimum amount of dust and dirt blowing.

133.07 DUTY TO PREVENT SPILLING OF DIRT; DUTY TO CLEAN STREET. It is the duty of any person engaged in hauling earth over, along or across any part of any paved street or alley in the City pursuant to a permit issued under the provisions of this chapter to use wagons or trucks for hauling such earth of such construction as the Building Inspector may approve, and to load such wagons or trucks in such manner and to clean them after unloading as to prevent the spilling or wasting of earth therefrom in passing over the streets and alleys. It is the duty of such person holding such permit, during the progress of such work, to keep the paved streets and alleys over which dirt is hauled by them free from any dirt that may be spilled, accidentally or otherwise, upon pavements, gutters or sidewalks, and to properly clean the same when required by the Building Inspector.

133.08 PROTECTION OF SIDEWALKS. No person holding any permit issued under the provisions of this chapter shall haul dirt or earth over, across or upon any permanent sidewalk in the City without first covering such sidewalk with planks of not less than two (2) inches in thickness. It is the duty of such permittee to remove and clean sidewalk (planked) crossing areas for pedestrian use after hauling hours each day.

133.09 CLEANING OF STREET BY CITY. The Building inspector shall have the right, when any person operating under a permit issued under this chapter fails to remove dirt spilled, wasted or left by such permittee upon any pavement, gutter, sidewalk or crossing along the line of haulage, when required, to cause the same to be done at the expense of the permittee, out of the funds specially deposited in connection with such permit, with the balance of such fund, if any, remaining after the completion of the work under such permit to be returned to the permittee. If at any time the deposit proves to be insufficient, the Building Inspector shall be empowered to stop further work and haulage until an additional amount shall have been deposited, in an amount which, in the opinion of the Building Inspector, is sufficient to maintain the pavements, gutters, sidewalks and crossings clear of earth during the progress of the work. After the completion of such work, the balance of such deposit shall be returned to the depositor upon the return of the permit and receipt.

133.10 SITE PLAN WITH FINAL GRADES. If the permit for dirt hauling is applied for during the construction or remodeling of a structure, a site plan shall be filed with the Building Inspector showing the final grade of the property affected. The Building Inspector shall give approval of the final grade. If the dirt hauling permit is being applied for other than in conjunction with the construction or remodeling of a structure, the Building Inspector may determine whether or not the changing of the grade of the affected property will, in any way,

affect future construction or remodeling possibilities as they relate to adjacent properties and the City streets and rights-of-way.

133.11 VIOLATION. Any person violating this chapter shall be subject to a civil municipal infraction and/or may be subject to injunctive or equitable relief issued by a court so as to restore the property to its previous condition prior to the fill or removal of dirt on the site.

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TITLE V – BUILDING AND PROPERTY REGULATIONS

MISCELLANEOUS

CHAPTER 135

WEEDS

135.01 Definitions

135.03 Emergency Control Measures

135.02 Nuisance Declared; Violations

135.01 DEFINITIONS. As used in this chapter, the following definitions apply:

1. “Chemical control” means the application of a herbicide (weed killer) in strict accordance with the directions on the product and the regulations of the *Code of Iowa* and the Iowa Administrative Code, as amended.
2. “Developed lot or area” means an improved or commercial lot; an improved area of land.
3. “Enforcement period” means the period between April 1 and November 15.
4. “Ground cover” means plants with the growth and root capacity to cover and stabilize an area of soil and to prevent erosion.
5. “Land” includes land, buildings, structures, tenements, hereditaments and all rights thereto and interests therein, equitable as well as legal.
6. “Noxious weeds” means primary and secondary classes of weeds as defined by the *Code of Iowa* and the Iowa Administrative Code, as amended.
7. “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; on unpaved streets, that part of the street, avenue or highway lying between the lot lines and that portion of the street usually traveled by vehicular traffic.
8. “Plant” means all manner of vegetation, including but not limited to grass, shrubs, trees and weeds, excluding cut firewood and compost piles.
9. “Right-of-way” means the entire width of a platted street or alley, whether the width is in use for travel or is undeveloped.
10. “Soil erosion control” means a method of planting and cultivation, or lack of same, designed to retain soil and to prevent soil movement caused by natural or human causes.
11. “Undeveloped lot or area” means an unimproved lot or area of land.
12. “Unmowed or untended area” means an area of land allowed to grow without care and supervision, where weeds and grasses are more than nine (9) inches in height.
13. “Weed official” means the person designated by the Mayor or Council to enforce this chapter.

14. "Weeds" means any plants growing uncultivated and out of context with the surrounding plant life with a height of nine (9) inches or more or when such plant has a seed head forming or formed.

135.02 NUISANCE DECLARED; VIOLATIONS. The failure of a person owning, controlling or in possession of property to observe any of the following requirements shall be subject to the penalties provided in Chapter 8 of this Code of Ordinances:

1. **Duty to Cut Noxious Weeds.** Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the weed official, all noxious weeds thereon and shall keep said lands free of such growth.
2. **Developed and Undeveloped Lots; Weed Removal; Grass Cutting.** Each owner and each person in possession or control of any developed or undeveloped lot or land area shall be responsible to keep said lot or land area, along with the parking adjacent thereto, alleys, public ways or land areas up to the centerline of said ways free of any weeds and to keep grasses on said land mowed so that said grass is less than nine inches in height.
3. **Obstructing Public Ways.** Each owner and each person in the possession or control of and lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrians or vehicular traffic upon any public place or way.
4. **Interference with Weed Official.** No persons shall interfere with the weed official or any appointed assistant while engaged in the enforcement of this chapter.
5. **Fire Hazards.** No owner or person in possession or control of any developed or undeveloped lots or land areas shall allow plant growth or accumulation of plant materials so as to constitute a fire hazard, as determined by the Fire Chief.

135.03 EMERGENCY CONTROL MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the weed official, the Fire Chief or the City Engineer, a property exhibits uncontrolled weed growth which creates a health, safety or fire hazard, the weed official may undertake immediate action to abate said condition without prior notice and opportunity for hearing. The costs of such action plus a reasonable administrative fee may be assessed against the property for collection in the same manner as property taxes as provided by State law. However, prior to such assessment, the City shall give written notice to the property owner, by certified mail, and the opportunity for an administrative hearing.

TITLE V – BUILDING AND PROPERTY REGULATIONS MISCELLANEOUS

CHAPTER 136

STORM WATER REGULATIONS

136.01 Purpose
136.02 Applicability
136.03 Permits
136.04 Requirements

136.05 Detention Ponds (Surface)
136.06 Detention Cells (Subsurface)
136.07 Penalties

136.01 PURPOSE. The purpose of this chapter is to provide guidance as well as govern the handling and treatment of storm water within the boundaries of the City.

136.02 APPLICABILITY. The provisions of this chapter apply to all new developments or construction projects that disturb any area of land.

136.03 PERMITS. No development or construction project shall be permitted without the submittal and approval of a post construction storm water plan and a construction site runoff control plan. The City Building Inspector and Maintenance Manager shall approve both the post construction storm water plan and construction site runoff control plan. In addition, the storm water plan shall also be provided to the City of Carter Lake Planning Board as part of the commercial or industrial project approval process. No construction, excavating, clearing, grubbing or other soil disturbing activity requiring a State of Iowa NPDES permit shall be allowed until a copy of the State permit is provided with the application for a City permit and the City approves the application.

136.04 REQUIREMENTS.

1. **Prohibited Discharge.** It is unlawful for the discharge of anything other than storm water or allowable non-storm water pollutants for which a NPDES permit has been granted into a storm water collection system. Floor drains and other potential sources of pollutants shall be considered discharges even if no actual pollutants have been observed entering the storm water system from such a source.
2. **Construction Site Runoff Control.** Any development or project that disturbs any area of land by clearing, grubbing, or excavation shall provide a plan for the control of runoff and sedimentation. The plan shall identify the best management practices (BMPs) to be used and detail their construction and placement. All control measures shall be maintained until any permanent storm water control measures are in place and established and/or operational for the development. The developer/contractor shall provide an adequate means or method for the control of construction waste. The control measure must ensure that solid building materials, chemicals, concrete truck wash out and sanitary waste are contained and disposed of in an approved manner. The City Building Inspector shall inspect the construction site runoff control measures at least every seven (7) days and within two (2) days of a ½-inch or greater rain event for compliance, adequacy, effectiveness and condition. Deficiencies or failure to maintain the construction control measures may result in a

“stop work order” until the deficiency or maintenance issue is resolved to the satisfaction of the inspector.

3. Post Construction Site Runoff Control. All developments of any area of land shall provide the City Planning Board, City Maintenance Manager and City Building Inspector engineering documents and calculations that detail the proposed means for accommodating post construction runoff, as established in the City of Carter Lake Storm Water Drainage Design Standards (January 2001). The design of the site sediment and erosion control plan and pollution prevention plan shall conform to the best management practices in the Environmental Protection Agencies (EPA) Storm Water Management for Construction Activities, EPA Document No. EPA-833-R-92-001 Chapter 3. The plan shall meet the following objectives:

- A. Prevent loss of soil during and after construction by storm water runoff and/or wind erosion, including protecting topsoil by stockpiling for reuse.
- B. Prevent sedimentation of storm sewers, receiving streams or lakes and/or air pollution with dust and particulate matter.
- C. Prevent the discharge of hazardous material into storm water systems.
- D. Prevent petroleum oils and lubricants discharge into storm water systems.
- E. Minimize the impact on the current City storm water systems.
- F. Minimize the area required for surface storm water storage areas.
- G. Maximize the percolation of the storm water into the water table.

All detention facilities must provide detention for an initial 2-inch of rainfall per impervious acre (paving or building roof) of storm water runoff for 24 hours. The storage volume shall be adequate to limit the post construction storm water discharge rate to the pre-construction discharge rate for the 5-, 10-, and 100-year storm water events. If necessary the storm water plan provided to the City of Carter Lake shall incorporate a means to accommodate or redirect existing storm water that may be entering the development or project site from adjacent property or streets. The City of Carter Lake Planning Board, Maintenance Manager, and Building Inspector shall approve the accommodation for the storm water from adjacent areas. The storm water plan for a development or project may not negatively impact an adjacent property or street.

136.05 DETENTION PONDS (SURFACE). Reference Appendix A to the ordinance codified in this chapter (Ordinance No. 626) for the City of Carter Lake Storm Water Drainage Design Standards (January 2001) and additional information regarding storage facilities. Any storm water detention pond or drainage swale shall be designed and constructed to provide an easily maintained bottom and side slopes. These areas shall be seeded or sodden with grass. The facility or swale shall be routinely mowed. Subsurface drains or other methods shall be used to dry the bottom of the detention area or swale to prevent ruts when mowing. The subsurface drains shall be designed to encourage infiltration. The percolation rate may be used in computing the capacity of the detention facility. The rate of infiltration shall be determined by the performance of no less than three percolation tests at spaced intervals in the area and at the depth that the in-ground storage facility will be constructed. The information will be provided as part of the documentation submitted with the plan submittal. The design of the storm water retention facilities may use the parking

surfaces for temporary impoundment provided the area is designed for this use. Any surface retention pond or storage facility used for the temporary holding of storm water shall be drained within a 24-hour period following a storm event. Any surface retention pond designed to contain a permanent quantity of water shall be provided with a means to control water-breeding insects either through chemical means, aeration equipment or pumping equipment. All retention ponds should be designed with a minimal slope of 4:12 to facilitate maintenance and access and egress from the holding area. If the detention area design or available area does not meet the recommended minimal slope then fencing or other means of security shall be provided around the entire detention area. A separate drawing sheet shall be provided depicting details of the detention ponds construction, level of water in the pond at the design rain events noted in the City of Carter Lake Storm Water Drainage Design Standards (January 2001). The drawing sheet(s) shall include the design criteria used as the basis of the design and document compliance with this chapter. An Iowa licensed professional engineer shall seal the drawing.

136.06 DETENTION CELLS (SUBSURFACE). The use of underground percolation wells or galleries and storage structures is encouraged. The capacity of the underground detention structure shall be the equivalent of an above ground detention structure. The percolation rate may be used in computing the capacity of the detention facility. The rate of infiltration shall be determined by the performance of no less than three percolation tests at spaced intervals in the area and at the depth that the in-ground storage facility will be constructed. The information will be provided as part of the documentation submitted with the plan submittal. A separate drawing sheet shall be provided depicting details of the underground detention cell construction, level of water in the cell at the design rain events noted in the City of Carter Lake Storm Water Drainage Design Standards (January 2001). The drawing sheet(s) shall include the design criteria used as the basis of the design and document compliance with this chapter. An Iowa licensed professional engineer shall seal the drawing.

136.07 PENALTIES. Any person violating any of the provisions of this chapter shall be guilty of a civil municipal infraction. The City, at its discretion, may perform maintenance on a storm water detention facility or swale such as to remove standing water, replace grass, mow, insect control, and remove sediment. Costs of the maintenance will be billed back to the landowner. A 24-hour notice will be given to the landowner prior to the City performing the required maintenance.

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TITLE V – BUILDING AND PROPERTY REGULATIONS

MISCELLANEOUS

CHAPTER 142

ABANDONED VEHICLES

142.01 Definitions	142.06 Disposal of Abandoned Vehicles
142.02 Authority to Take Possession of Abandoned Vehicles	142.07 Disposal of Totally Inoperable Vehicles
142.03 Notice by Mail	142.08 Proceeds from Sales
142.04 Notification in Newspaper	142.09 Duties of Demolisher
142.05 Fees for Impoundment	

142.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 321.89[1]*)

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

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

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

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

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

142.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle

was abandoned shall be sufficient to meet all requirements of notice under Section 142.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 142.03.

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

142.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay five dollars (\$5.00) for each day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

142.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

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TITLE V – BUILDING AND PROPERTY REGULATIONS

MISCELLANEOUS

CHAPTER 143

JUNK AND JUNK VEHICLES

143.01 Definitions

143.02 Junk and Junk Vehicles Prohibited

143.03 Junk and Junk Vehicles a Nuisance

143.04 Exceptions

143.05 Notice to Abate

143.01 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.

143.02 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.

143.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 143.04, 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])

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City; or
3. Other. Vehicles that are inoperable solely by reason of repair work being done thereon, provided that the following conditions are met:
 - A. The vehicle is owned by the occupier of the premises and registered to said person at that address;
 - B. The period of said repair work does not exceed ten days in duration;
 - C. Said repair work is at all times conducted on a hard-surfaced driveway; and
 - D. No more than one automobile in need of repair is situated on the premises at the same time.

143.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 143.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 55 of this Code of Ordinances.

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

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS BEER, LIQUOR AND WINE CONTROL

CHAPTER 145

ALCOHOL CONSUMPTION AND INTOXICATION

145.01 - 145.02 *(Reserved)*
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145.05 Open Container on Streets and Highways

145.01 - 145.02 *(Reserved)*

145.03 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])

145.04 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 in a public place.

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

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

145.05 OPEN CONTAINER ON STREETS AND HIGHWAYS. *(See Section 62.09 of this Code of Ordinances.)*

TITLE VI – REGULATION OF BUSINESS AND VOCATIONS BEER, LIQUOR AND WINE CONTROL

CHAPTER 146

LIQUOR LICENSES AND WINE AND BEER PERMITS

146.01 License or Permit Required
146.02 General Prohibition
146.03 Investigation
146.04 Action by Council

146.05 Prohibited Sales and Acts
146.06 Persons Under Legal Age
146.07 Amusement Devices
146.08 Dancing in Licensed Premises

146.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

146.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

146.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

146.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

146.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(Code of Iowa, Sec. 123.49 [2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49 [2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

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

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

146.06 PERSONS UNDER LEGAL AGE.

1. No person or club holding a liquor control license or wine or beer permit which authorizes consumption on the premises, and no agent or employee of any such person shall allow any person under the age for lawful consumption or possession of alcoholic beverages to enter or remain in the licensed or permitted establishment after 9:00 p.m. unless:

A. The licensee or permittee applies for and qualifies for an exception certificate from the Police Chief as follows:

(1) A licensee or permittee whose primary business purpose is not the sale of alcoholic beverages, wine or beer may qualify for an exception upon submission of a verified statement from a certified public accountant or an accountant which establishes that more than 50 percent of the licensee's or permittee's gross sales are from the sale of goods or services other than for the sale of alcoholic beverages, wine or beer which shall not include income from cover charges, entertainment fees, drink mixes or nonalcoholic beverages.

(2) In addition to the statement mentioned in subparagraph (1) of this section, proof of qualification may include State and Federal tax records for the previous year, articles of incorporation, and receipts from specific vendors which itemize goods purchased related to the applicant's primary business purpose from the previous six months as requested by the Police Chief.

The City Council may issue an exception certificate if the licensee or permittee has satisfied the requirements in this subsection. An exception certificate shall be effective for the duration of the alcoholic liquor control license or wine or beer permit.

B. The licensee or permittee applies for a special event exception from the City Council, which may, at its discretion, allow the holder to provide entertainment to persons under legal age as follows:

(1) A licensee or permittee may qualify for a special event exception when an application is submitted to the City Clerk at least forty-five (45) business days prior to the proposed special event. Such application shall include the name and address of the licensed or permitted establishment, the type of event for which an exception is applied, the proposed date for the event and the time of the event.

(2) All alcoholic liquor, wine or beer is removed or stored so that it is not available for sale or consumption during the extended period of the special event.

(3) A special event exception shall be valid through the date of the special event or for the duration of the alcoholic liquor control license or wine or beer permit, whichever is first in time.

(4) Failure to comply with the terms of this special event exception shall result in the revocation or denial of such an exception application for one year.

For special events not exceeding five days in duration where a street closure has been authorized by the City Council and a temporary liquor control license has been issued, the City Council may issue a special exception for the event, such exception to be limited to outdoor areas covered by the temporary liquor control license. The City Council's discretion may include but is not limited to past experience with policing the same event, staffing, and any special difficulties in policing the proposed event.

C. The licensee or permittee posts a current exception certificate at the main entrance in the view of patrons of the licensed or permitted establishment.

No more than four (4) exception certificates per calendar year may be issued under these provisions.

2. No person or club holding a liquor control license or wine or beer permit which authorizes consumption on the premises shall fail to post notices at all entrances to the licensed or permitted premises in the view of patrons of the licensed or permitted establishment that persons under legal age are not allowed in the premises after 9:00 p.m. unless the licensee or permittee has a current exception certificate under this section.

After 9:00 p.m., no person under the age for lawful consumption or possession of alcoholic beverages shall enter into or remain on the premises of a licensed or permitted establishment which authorizes consumption on the premises which does not have a valid exception certificate posted under this section.

146.07 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

146.08 DANCING IN LICENSED PREMISES. Dancing is authorized in connection with the operation of a beer, wine or liquor business under a permit or license, provided that:

1. The floor space used for dancing purposes therein contains at least 100 square feet, all of which is on the same general floor level as the place where the beer, wine or liquor is dispensed;
2. The space to be used for dancing is in the same room as or in a room adjacent to and opening directly from the place where beer, wine or liquor is dispensed; and
3. The floor space shall not be obstructed or crossed, in any part or portion, by partitions or other obstructions of any kind except necessary structural posts, pillars or similar supports.

No permittee or licensee, except clubs operating under club permits, shall be entitled to the benefit of the authorization provided in this section unless such permittee or licensee first obtains a public dance license as provided in Chapter 167 of this Code of Ordinances, and any dancing allowed by such permittee or licensee who has not first obtained such license shall be deemed a violation.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS FRANCHISES

CHAPTER 150

CABLE TELEVISION REGULATIONS

150.01 Purpose and Scope	150.14 Maps, Plats and Reports
150.02 Definitions	150.15 Emergency Use of Facilities
150.03 Compliance with Applicable Law	150.16 Change of Control of Grantee
150.04 Performance Standards	150.17 Inspection of Records
150.05 Operation and Maintenance; Complaints	150.18 Supervision and Inspection
150.06 Program Alteration Prohibited	150.19 Filings and Communications with Regulatory Agencies
150.07 Removal of Existing Antenna	150.20 Discrimination Prohibited
150.08 Safety Requirements	150.21 Other Business Activities Prohibited
150.09 Conditions on Street Use	150.22 Hold Harmless
150.10 Placement and Use of Poles	150.23 Insurance
150.11 Removal of Equipment Upon Expiration	150.24 Bonds
150.12 Service Rules and Regulations	150.25 Payment of Costs
150.13 Rates	

150.01 PURPOSE AND SCOPE. The purpose of this chapter is to regulate cable television systems within the City which operate pursuant to City franchise and to so regulate consistent with Federal Communications Commission rules and regulations and other applicable statutes, ordinances or regulations.

150.02 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following words and phrases, for the purpose of this chapter, shall 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, and other signals originated or supplied by Grantee or others, by wire or cable, to subscribing members of the public who pay for such services. Such term does not include any facility that serves fewer than fifty subscribers, or any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such an apartment house.
2. “Channel” means a 3 MHz band for transmission of visual and audio signals for television.
3. “Converter” means a device capable of providing more than the number of channels on a standard television receiver.
4. “Distortion” means the departure, during transmission or amplification, from the received signal waveform from that of the original transmitted waveform.
5. “Existing connection” means the connection of the cable or wire to a television or radio receiver when the house drop has previously been installed.
6. “FCC” means the Federal Communications Commission.

7. "Franchise" means a legal contract between the City and a person which contract contains terms and conditions for construction and operating a cable television system.
8. "Ghost images" means weak or shadowy images in the received picture, offset from the primary image.
9. "Grantee" means a person holding a franchise to operate a cable television system.
10. "House drop" means the wire or cable that connects each building or home to the main (trunk) cable.
11. "New connection" means the installation of a house drop and the connection of the cable or wire to a television or radio receiver.
12. "Outlet" means the point of connection of the cable or wire to a television or radio receiver.
13. "Subscriber" means a person who purchases cable television services.

150.03 COMPLIANCE WITH APPLICABLE LAW. Grantee shall at all times comply with the rules and regulations of the FCC and shall also comply with all other applicable statutes, ordinances and regulations. FCC rules and regulations shall in all cases be controlling if any part of this chapter or any cable television franchise is in conflict with any FCC rules and regulations.

150.04 PERFORMANCE STANDARDS. A grantee shall produce a picture in black and white or in color that is undistorted, free from ghost images and accompanied by proper sound on typical standard production television sets in good repair. A grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all outlets throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

150.05 OPERATION AND MAINTENANCE; COMPLAINTS. In addition to the requirements already imposed, a grantee shall perform the following with regard to the operation and maintenance of a cable television system:

1. Maintain an office in the Metropolitan Omaha-Council Bluffs area which shall be open during all normal business hours. Grantee shall also have a listed telephone number and be so operated that complaints and requests for repairs or adjustments may be received at any time.
2. Limit failures of the system to a minimum and locate and correct all malfunctions involving the house drop and all other malfunctions between the trunk line and the television or radio receiver within 24 hours following notice by a subscriber, whenever possible.
3. Insure the availability of a sufficient number of repairmen between the hours of 8:00 a.m. and 8:00 p.m. daily.
4. Keep service interruptions involving the production and distribution systems as short as practical and, insofar as possible, schedule such interruptions during periods of minimum use of the system and precede them by notice.
5. Upon termination of service to any subscriber, promptly remove all its facilities and equipment from subscriber's premises upon request without charge.

6. Be capable of distributing color television signals. When signals are received in color they shall be distributed in color.

All complaints to the City shall be forwarded to the Mayor. The Mayor shall forward the complaint to the grantee, and the grantee shall satisfy the complaint or advise the Mayor of its refusal or inability to do so within a reasonable time. If the grantee satisfies the complaint, it shall so notify the Mayor. When a complaint has not been satisfied, the Mayor shall notify the complainant that the complainant has 30 days from the receipt of the notice to file a formal complaint with the Council. Upon receipt of a formal complaint, the Council or its designated agent shall ascertain the facts and shall have the power to enforce its decision, if against grantee, by all actions hereunder, including the revocation of the franchise.

150.06 PROGRAM ALTERATION PROHIBITED. All programs of broadcasting stations carried by a grantee shall be carried in their entirety as received, with announcements and advertisements and without additions.

150.07 REMOVAL OF EXISTING ANTENNA. A grantee shall in no way tamper with or remove an existing television antenna without the subscriber's consent.

150.08 SAFETY REQUIREMENTS. A grantee shall at all times employ reasonable care in the installation and maintenance of its cable television system in accordance with commonly accepted good engineering methods and practices. A grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of Article 820 and Section 230.24(b) of the *National Electric Code*. All structures, lines, equipment or connections in, over, under or upon the streets, sidewalks, alleys and public ways or places of the City shall at all times be kept and maintained in a safe condition, free from nuisance, and in good working order and repair and shall not in any way interfere with any installations of the City of any public utility serving the City.

150.09 CONDITIONS ON STREET USE.

1. A-1 transmission and distribution structures, lines and equipment erected by the grantee within the City shall be located so as not to interfere with the proper use of the streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places and not to interfere with existing public utility installations. In all areas of the City where all the cables, wires or other like facilities of public utilities are placed underground, the grantee shall place its cables, wires and other like facilities underground to the maximum extent existing technology permits. The grantee shall furnish to and file with the City maps, plats and permanent records of the locations and character of all facilities constructed, including underground facilities.
2. In the case of any excavation or disturbance of pavement, sidewalks, driveways or other surfacing, the grantee shall be subject to all applicable City ordinances. The grantee shall, at its own expense and in the manner provided by the City, replace and restore all paving, sidewalks, driveway or other surface of the street, alley, or public way or place disturbed.
3. If, at any time during the period of the franchise, the City shall lawfully elect to alter or change the grade or location of any street, alley or public way, the grantee shall, upon reasonable notice by the City, remove, relay and relocate its poles, wires,

cables, underground conduits, manholes and other fixtures at its own expense, and in each instance shall comply with the requirements of the City.

4. The grantee shall not place poles, conduits or other fixtures above or below the ground where the same will interfere with any gas, electric, telephone fixtures, water hydrants or other utility; and all such poles, conduits or other fixtures placed in any street shall be so placed as to comply with all requirements of the City.

5. The grantee shall, on the request of any person, after permission has been granted by the City, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid by the person requesting the same. The grantee shall be given not less than 48 hours' advance notice.

6. The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee. All trimming is to be done under the supervision and direction of the City and at the expense and liability of the grantee.

150.10 PLACEMENT AND USE OF POLES.

1. Where poles or other wire-holding structures already serving the City are available for use by any grantee, but grantee does not make arrangements for such use, the City may require a grantee to use such poles and structures if the City determines that the public convenience would be enhanced thereby and if the terms of the use available to the grantee are just and reasonable.

2. Where the City or a public utility serving the City desires to make use of the poles or other wire-holding structures of a grantee, but agreement with a grantee cannot be reached, the City may require the grantee to permit such use for such consideration and upon such terms as the City shall deem to be just and reasonable, if the City determines that the use would enhance the public convenience and would not unduly interfere with a grantee's operations.

150.11 REMOVAL OF EQUIPMENT UPON EXPIRATION. Upon the termination or cancellation of this cable television franchise, grantee shall remove its poles, cable television transmission and distribution systems, and all other appurtenances from the streets, sidewalks and public ways of the City, and shall restore the same to their original condition. If grantee refuses to remove such items or fails to remove such items in a reasonable time after notification by the City, the City shall have the right and authority to remove such poles, cable television transmission and distribution systems, and other appurtenances from the City streets, sidewalks and public ways.

150.12 SERVICE RULES AND REGULATIONS. A grantee shall have the right to prescribe a reasonable service rules and regulations regarding access channels not inconsistent with the provisions of the grantee's franchise, this chapter, or of any other ordinances of the City and not inconsistent with the laws of the State of Iowa and the United States. Such rules shall be filed with the City before submission to the FCC. A grantee shall also submit to the City the form of its service agreements between grantee and its subscribers for approval by the City and shall furnish for approval any amendments or alterations to the service agreement.

150.13 RATES. All rates for service shall be reasonable, compensatory and nondiscriminatory. Except as may otherwise be provided in a franchise, a grantee shall have the right, privilege and authority to change the rates and charges.

150.14 MAPS, PLATS AND REPORTS. A grantee shall submit to the Building Inspector maps and plats showing all existing and proposed cable television installations in the City. A grantee shall submit upon request all business records or reports to the City. Furthermore, a grantee shall make periodic reports, but not less than annually, to the City concerning cable television operations and shall also furnish to the City an annual audit of its accounts by certified public accountants.

150.15 EMERGENCY USE OF FACILITIES. In the event of any emergency or disaster, grantee shall, upon the request of the Mayor, make its facilities available to the City for emergency use during the emergency or disaster.

150.16 CHANGE OF CONTROL OF GRANTEE. Prior approval of the Council shall be required where ownership or control of more than twenty-five percent of the right of a grantee is acquired by a person or several persons acting in concert, none of whom already own or control twenty-five percent or more of such right of control, singularly or collectively. Any such acquisition occurring without prior approval of the Council shall constitute a violation of a grantee's franchise.

150.17 INSPECTION OF RECORDS. The City shall have the right, power and authority to inspect the records of any grantee at the premises of such grantee during the normal business hours of any working day, or at any other reasonable time and place provided that grantee is given no less than seven (7) days' notice.

150.18 SUPERVISION AND INSPECTION. The City shall have the right to supervise any construction or installation work performed by any grantee in the City and make such inspections as it finds necessary to insure compliance with the terms of any cable television franchise, this chapter, or other pertinent provisions of the law.

150.19 FILINGS AND COMMUNICATIONS WITH REGULATORY AGENCIES. Copies of all petitions, applications, communications and reports submitted by any grantee to the FCC, Securities and Exchange Commission, or any other Federal or State regulatory commission or agency having jurisdiction in regard to any matters affecting cable television shall also be submitted simultaneously to the Council.

150.20 DISCRIMINATION PROHIBITED. A grantee shall not, as to rates, charges, services, service facilities, rules and regulations, or in any other respect, make or grant any undue preference or advantage to any person, or subject any person to prejudice or disadvantage. Nothing in this section, however, shall be deemed to prohibit promotional campaigns to stimulate subscriptions to the system or deemed to prohibit the charging of special rates so long as that rate is reasonable, lawful and has received the prior approval of the Council after notice and hearing. A grantee shall not discriminate against any person on the basis of race, disability, religion, creed, color, sex, national origin or ancestry. Furthermore, a grantee shall also take affirmative action to recruit employees from members of minority groups.

150.21 OTHER BUSINESS ACTIVITIES PROHIBITED. A grantee shall not engage in the business of selling, repairing or installing television receivers, radio receivers or accessories for such receivers within the City during the term of this cable television franchise, except as provided in grantee's franchise or as provided in this chapter.

150.22 HOLD HARMLESS. A grantee shall at all times defend, indemnify, protect and hold harmless the City from and against any and all liability, losses and damage to property or bodily injury or death to any person, including payments made under worker's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance or operation of grantee's cable television system and caused by any act or failure to act on the part of grantee, its agents, officers, servants or employees. A grantee shall hold the City harmless against any damages resulting from legal action which may be brought against it in connection with the establishment or operation of a grantee's cable television system in the City and shall defend at its own expense any action brought against the City by reason of the erection, construction, replacement, removal, maintenance or operation of a grantee's cable television system.

150.23 INSURANCE. A grantee shall promptly, after the granting of grantee's franchise, provide liability insurance for personal injuries and/or death growing out of any one accident or other cause in a minimum sum of \$100,000 for one person, and \$500,000 aggregate for each accident. A grantee shall also provide insurance in the amount of \$100,000 for property damage resulting from any one accident. A grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa satisfactory to the City. All policies shall name the City, its employees, servants, agents and officers as additional named insured parties. In addition, the City shall receive at least ten days' prior written notice of any cancellation or change in any said insurance policy. A grantee shall furnish the City with a certificate of insurance from grantee's carrier indicating that there is such insurance coverage as herein provided for, and if requested by the City, shall submit to the City two (2) certified copies of said policies.

150.24 BONDS.

1. Performance Bonds. Upon acceptance of franchise, a grantee shall furnish the City a surety bond in the sum of \$50,000, which bond shall indemnify the City against any loss occasioned by the default of the grantee in the construction of the system. Upon grantee's activating the system, this bond shall be canceled and exonerated. The bond shall be issued by a surety company qualified to do business in the State of Iowa.
2. Surety Bonds. Grantee shall furnish to the City a surety bond in the sum of \$5,000.00 or in an amount at least equal to the sum of the franchise fee paid to the City in the immediately preceding year, whichever is greater, and the bond shall commence at the date of the grantee's placing the system into operation. The bond shall be issued by a surety company qualified to do business in the State of Iowa. The bond shall be conditioned to insure payment of any franchise fee to the City and to insure faithful performance of the Grantee's franchise under the terms of this chapter.

150.25 PAYMENT OF COSTS. In the granting of any cable television franchise, the City shall be governed by the applicable provisions of Chapter 364 of the *Code of Iowa* or such other enactments of the General Assembly which might hereafter amend or supersede said chapter. Furthermore, any person asking the Council to initiate the submission of the question

of granting a cable television franchise to the electors of the City or any person petitioning the Council to submit the cable television franchise question shall pay the costs incurred in holding such franchise election.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS FRANCHISES

CHAPTER 151

CABLE TELEVISION FRANCHISE

151.01 Term of Franchise
151.02 Agreement and Waiver
151.03 Nonexclusive Franchise
151.04 Subscriber Rates and Charges
151.05 Change of Rates and Charges
151.06 Rates for New Services

151.07 Franchise Fee
151.08 Observance of FCC Regulations
151.09 Complaints
151.10 Technical Standards
151.11 Transfer of Franchise
151.12 Forfeiture and Termination

151.01 TERM OF FRANCHISE. Pursuant to full consideration and approval of the grantee’s legal, character, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, and as part of a full public proceedings affording due process, Cox Communications Omaha, L.L.C., its successors and assigns (hereinafter referred to as “Grantee”) are hereby granted the right, franchise, and authority for a period of twenty (20) years,[†] to acquire, construct, and operate a cable television system over, under and upon property of the City and to sell and supply to individuals, firms and corporations, public or private, at any and all places, within the corporate limits of the City, as said limits now are or hereafter may be established, audio, video and data communications services, subject to the conditions and restricted as hereinafter provided, and subject to Chapter 150 of this Code of Ordinances (the “Cable Television Code”).

151.02 AGREEMENT AND WAIVER. Grantee agrees to abide by all provisions of this franchise and all other applicable ordinances of the City, including, but not limited to, the Cable Television Code as presently enacted and as it may hereinafter be amended by the City. Further, Grantee agrees that it will not set up as against the City any claim that the provisions of this franchise or any other applicable ordinances are unreasonable, arbitrary, or void.

151.03 NONEXCLUSIVE FRANCHISE. This franchise shall not be exclusive and shall neither restrict the City Council in the exercise of its regulatory power or prevent it from granting any other cable television system franchise or franchises.

151.04 SUBSCRIBER RATES AND CHARGES. Grantee shall be allowed to charge the rates and charges for its service as set forth in the Cable Television Code as presently enacted or as it may hereafter be amended.

151.05 CHANGE OF RATES AND CHARGES. Any increase in rates and charges shall be made only in accordance with the procedures set forth in the Cable Television Code as presently enacted or as it may hereafter be amended.

151.06 RATES FOR NEW SERVICES. To the extent permitted by the Federal Communications Commission (FCC) Rules and Regulations, rates or charges for new services

[†] **EDITOR’S NOTE:** Ordinance No. 520, adopting a cable television franchise for the City, was passed and adopted on January 18, 2000.

which may be offered in the future by Grantee shall be established by the City upon application of Grantee. Such rates or charges shall be established in accordance with the procedure for rate changes as set forth in Section 151.05 above.

151.07 FRANCHISE FEE. A fee shall be paid by the Grantee to the City in accordance with the pertinent provisions of the Cable Television Code as presently enacted and as it may hereafter be amended by the City.

151.08 OBSERVANCE OF FCC REGULATIONS. Grantee shall comply with all applicable Rules and Regulations of the FCC which are now in effect or which may hereafter be promulgated. Furthermore, any modifications of Section 76.31 of sub-part C “Federal-State/Local Regulatory Relationships,” of the FCC Rules and Regulations pertaining to cable television systems shall be incorporated into this franchise within one year of the adoption of said modification by the FCC or at the time of any renewal of this franchise, whichever occurs first.

151.09 COMPLAINTS. Grantee shall maintain an office within the Omaha/Council Bluffs metropolitan area for the purpose of receiving, investigating, and responding to complaints regarding the quality of service, equipment malfunctions, and other similar matters pertaining to the cable television system. Grantee shall record the date and substance of each complaint received and the date and nature of action taken by Grantee to respond to such complaint.

151.10 TECHNICAL STANDARDS. In connection with the operation of a cable television system, Grantee shall render its service in accordance with those technical standards already enacted by the City and those reasonable technical standards and reporting requirements which may hereafter be enacted by the City.

151.11 TRANSFER OF FRANCHISE. Grantee shall not sell, transfer or assign the franchise without the prior approval of the City by ordinance.

151.12 FORFEITURE AND TERMINATION. If Grantee fails to comply with any of the provisions of this franchise, or default in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee, and fails within thirty (30) days after written notice from the City to commence and, within a reasonable time, complete the correction of such default or noncompliance, the City shall have the right to revoke the franchise and all rights of the Grantee under this chapter. In the event the Grantee is adjudicated bankrupt or placed in receivership, the City may declare the franchise herein granted forfeited and terminated.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS FRANCHISES

CHAPTER 152

ELECTRIC FRANCHISE

152.01 Franchise Granted

152.02 Construction Maintenance; Indemnification

152.03 Meters; Service Lines

152.04 Emergencies

152.05 System Requirements

152.06 Nonexclusive

152.07 Service Provided

152.08 Term of Franchise

152.01 FRANCHISE GRANTED. There is hereby granted to the Omaha Public Power District, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years; also the right to eminent domain as provided in Section 364.2 of the *Code of Iowa*.

152.02 CONSTRUCTION MAINTENANCE; INDEMNIFICATION. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company and its successors and assigns shall hold the City free and harmless from all damages arising from any negligence of the Company in the erection or maintenance of said system.

152.03 METERS; SERVICE LINES. The Company, its successors and assigns, shall furnish and install all meters and service wires to buildings at its own expense and the City expressly reserves the right of the Council to carry out any and all powers and duties as provided by law.

152.04 EMERGENCIES. In case of fire or other emergencies, the poles, wires and street fixtures of the Company may be cut and moved by order of the Mayor or Fire Chief. The City shall also have the right to place on the poles of the Company wires for fire alarm system, providing however, that the placing of said wires does not interfere with the proper use and maintenance of the Company’s wires.

152.05 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern up-to-date condition.

152.06 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

152.07 SERVICE PROVIDED. Service to be rendered by the Company under this franchise shall be continuous 24-hour service each day of the week unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, and in such event service shall be resumed as quickly as is reasonably possible.

152.08 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company.[†]

[†] **EDITOR'S NOTE:** Ordinance No. 533, adopting an electric franchise for the City, was passed and adopted on May 21, 2002.

TITLE VI – REGULATION OF BUSINESS AND VOCATIONS FRANCHISES

CHAPTER 153

NATURAL GAS FRANCHISE

153.01 Franchise Granted

153.02 Term

153.03 Governing Rules and Regulations

153.04 Construction and Maintenance of Facilities

153.05 Extension of Facilities

153.06 Relocation of Facilities

153.07 Confidential Information

153.08 Force Majeure

153.09 Hold Harmless

153.10 Non-Waiver

153.11 Repeal of Conflicting Ordinances

153.12 Default

153.13 Franchise Fee

153.01 FRANCHISE GRANTED. The City hereby grants a nonexclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation (hereinafter called “Grantee”), its lessees, successors, and assigns. Grantee is hereby granted the right, privilege, franchise, permission, and authority to lay, construct, install, maintain, operate, and extend in, along, over, or across the present and future streets, alleys, avenues, bridges, public rights-of-way, and public places as are now within the present or future limits of the City, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of the City and consumers in the vicinity thereof, and for the distribution of natural gas from or through the City to points beyond the limits thereof. Such facilities include (but are not limited to) all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing, and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of the City and in carrying on such business.

153.02 TERM. The rights and privileges granted by this chapter shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter.[†]

153.03 GOVERNING RULES AND REGULATIONS.

1. The franchise is granted subject to all conditions, limitations, and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of the City and the rules and regulations regarding the character, quality, and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided, however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then the Grantee and

[†] **EDITOR’S NOTE:** Ordinance No. 602, adopting a natural gas franchise for the City, was passed and adopted on January 21, 2008.

City shall renegotiate the terms of this chapter in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this chapter shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the City.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing, or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations are uniform as applied to each class of customers or prospective customers, and are non-discriminatory as between communities receiving service from the Grantee.

153.04 CONSTRUCTION AND MAINTENANCE OF FACILITIES. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the City and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation to the reasonable satisfaction of the City. Grantee agrees that for the term of the franchise, it will use its best efforts to maintain facilities and equipment sufficient to meet the current and future energy requirements of the City, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify the City as soon as reasonably possible. The City will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the City will start the work, and if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

153.05 EXTENSION OF FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of the City.

153.06 RELOCATION OF FACILITIES. If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the City, at the cost and expense of Grantee. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other right-of-way user,

Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment. Grantee, its successors and assigns, shall connect its mains to all qualified applicants for gas under the provisions of this chapter, constructing such service connections from the main to the structure, up to 175 feet, without charge to the applicant. In urban renewal areas established pursuant to law, Grantee agrees, at its sole cost and expense, to disconnect, sever from its system and abandon or salvage, at its option, all existing gas distribution mains, services and appurtenances necessary to the clearing of such areas, under urban renewal plans so long as such areas are or will be, pursuant to the urban renewal plan, devoted to a public purpose; and to furnish in replatted and rebuilt urban renewal areas new or replacement mains and services connected to Grantee's gas distribution system, at the expense of Grantee so long as such areas are devoted to a public purpose; provided, however, if any State or Federal funds should be available which could be obtained by the City or Grantee to defray the expense or costs of such changes, adjustment, installations, or relocations of Grantee's gas distribution system (including, but not restricted to, relocations caused by highway construction within the urban renewal area), the City shall assist Grantee in all efforts to secure the same, as long as City's credits would not thereby be diminished.

153.07 CONFIDENTIAL INFORMATION. The City acknowledges that certain information it might request pursuant to this chapter may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to the City be kept confidential due to such proprietary or commercial value, the City and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If the City is requested or required by legal or administrative process to disclose any such confidential information, the City shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. The City shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

153.08 FORCE MAJEURE. It shall not be a breach or default under this chapter if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure includes, but is not limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; (ii) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; (iii) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as

reasonably possible once it occurs in order to resume performance; provided, however, this provision shall not obligate a party to settle any labor strike.

153.09 HOLD HARMLESS. Grantee, during the term of the franchise, agrees to save harmless the City from and against all claims, demands, losses and expenses, including attorney fees and costs, arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, Grantee need not save harmless the City from claims, demands, losses and expenses arising out of the negligence of the City, its employees or agents.

153.10 NON-WAIVER. Any waiver of any obligation or default under this chapter shall not be construed as a waiver of any future defaults, whether of like or different character.

153.11 REPEAL CONFLICTING ORDINANCES. This chapter constitutes the entire agreement between the City and the Grantee relating to the franchise, and the same shall supersede all prior ordinances pertaining to the franchise agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 329 of the City is hereby repealed.

153.12 DEFAULT. If Grantee shall be in default in the performance of any of the terms and conditions of this chapter and continues in default for more than 30 days after receiving notice from the City of such default, the City may, by ordinance duly passed and adopted, terminate all rights granted under this chapter. The notice of default shall specify the manner in which it is claimed the Grantee is in default. Such notice shall be in writing and served by registered or certified mail.

153.13 FRANCHISE FEE. If, during the term of the franchise, there shall be enacted by the Iowa General Assembly a valid taxing statute authorizing the City to collect a tax on the gas revenues received by Grantee from its customers in the City, then if such tax is levied by the City, said Grantee will include such tax as a separate item on its customers' bills and remit the sums collected to the City under the terms and provisions of such enacted statute.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 160

CIGARETTE AND TOBACCO PERMITS

160.01 Definitions
160.02 Permit Required
160.03 Application
160.04 Fees
160.05 Issuance and Expiration

160.06 Refunds
160.07 Persons Under Legal Age
160.08 Self-Service Sales Prohibited
160.09 Permit Revocation

160.01 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 or tobacco products 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 or who engages in the business of selling tobacco products to ultimate consumers.
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; 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.

160.02 PERMIT REQUIRED.

1. Cigarette Permits. 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, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

160.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

160.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

160.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

160.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

160.07 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 other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

160.08 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)

160.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

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

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 161

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

161.01 Purpose	161.11 Time Restriction
161.02 Definitions	161.12 Revocation of License
161.03 License Required	161.13 Notice
161.04 Application for License	161.14 Hearing
161.05 License Fees	161.15 Record and Determination
161.06 Bond Required	161.16 Appeal
161.07 License Issued	161.17 Effect of Revocation
161.08 Display of License	161.18 Rebates
161.09 License Not Transferable	161.19 License Exemptions
161.10 Shouting, Loudspeaker Systems and Other Noises	161.20 Charitable and Nonprofit Organizations

161.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

161.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

161.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. Upon the receipt of such application, the Clerk shall refer the same to the Police

Chief, who shall make such investigation of the character and reputation of the persons who will conduct the business within the City, as the Police Chief deems necessary for the protection of the public good.

161.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors and Peddlers \$ 25.00 per week;
2. Transient Merchants \$ 50.00 per week.

Any period of seven (7) calendar days or less is considered one week.

161.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

161.07 LICENSE ISSUED. Based on the results of the investigation as to the character and business reputation of the persons who will conduct the business, the Police Chief shall recommend approval or disapproval of the application. If the Police Chief recommends disapproval of the application, the reasons therefor shall be stated. If, as a result of the investigation, the Police Chief finds that the character and business responsibility of all persons who will conduct the business are satisfactory, the Police Chief shall endorse approval upon the application. Upon receipt of the Police Chief's recommendation for approval, as well as the required license fee, the Clerk shall issue the license.

161.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

161.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

161.10 SHOUTING, LOUDSPEAKER SYSTEMS AND OTHER NOISES. No licensee hereunder or any person in the licensee's behalf shall shout, blow on a horn, or use any other noise-making device for the purpose of advertising or otherwise announcing or proclaiming wares or business activities except as the same may be permissible under any other ordinance of the City or statute of the State.

161.11 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and sunset.

161.12 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

161.13 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

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

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

161.16 APPEAL. If the Clerk revokes or if the Police Chief refuses to approve an application for a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk or Police Chief by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

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

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

161.19 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Council Bluffs Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

161.20 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 161.04 and 161.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 161.16 of this chapter.

TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 162

HOUSE MOVERS

162.01 House Mover Defined
162.02 Permit Required
162.03 Application
162.04 Bond Required
162.05 Insurance Required
162.06 Permit Issued

162.07 Public Safety
162.08 Time Limit
162.09 Removal by City
162.10 Protect Pavement
162.11 Overhead Wires

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

162.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

162.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

162.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

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

1. Bodily Injury – \$50,000 per person; \$100,000 per accident.
2. Property Damage – \$50,000 per accident.

162.06 PERMIT ISSUED. Upon approval of the application and filing of bond and insurance certificate, the Clerk shall issue a permit. A separate permit shall be required for each house, building or similar structure to be moved.

162.07 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

162.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

162.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 162.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

162.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

162.11 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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**TITLE VI – REGULATION OF BUSINESS AND VOCATIONS
GENERAL**

CHAPTER 163

BUSINESS PERMITS

(Chapter Deleted)

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 164

JUNK AND SALVAGE YARDS

164.01 Definitions
164.02 License Required
164.03 License Fee
164.04 Premises Inspection
164.05 Validity; Renewal
164.06 License Nontransferable

164.07 Access Roads
164.08 Enclosure Required
164.09 Sanitary Premises
164.10 Compliance With Other Provisions
164.11 Purchase From Minor Unlawful

164.01 DEFINITIONS. For the purpose of this chapter, the following terms, words and phrases are deemed to have the following definitions:

1. “Junk dealer” means any person who alone or through agents engages in the business of buying selling, receiving, collecting, or dealing in old iron, lead, brass, steel, copper or other metals, bottles, rags or paper.
2. “Junk or salvage vehicle” means any vehicle, or portion thereof, not in running or operable condition and/or not licensed for the current year as provided by law.
3. “Salvage operator” means any person who engages in the business of a junk dealer, as defined in this section, or who engages in the business of operating a wrecking yard or salvage yard, as defined in this section.
4. “Wrecking yard” or “salvage yard” means any location in the City where used automobiles or other large articles are dismantled, scrapped or junked, or the same are bought or sold for the purpose of dismantling the same for their parts or for the purpose of converting the same into scrap or junk.

164.02 LICENSE REQUIRED. It is unlawful for any person to engage in the business of being a salvage operator, as defined in this chapter, without having first obtained a license from the City to do so. Any person desiring to engage in the business of salvage operator in the City must first make application for a license to do so, on a form to be furnished for such purpose by the office of the Clerk. The application shall contain the following information:

1. The name and place of residence of the applicant, as well as the business address, if any.
2. If the applicant is a firm, partnership, corporation or other legal entity, the names and addresses of all associates, partners or officers thereof shall be set forth. If the applicant is a foreign corporation, adequate proof of authority to conduct business within the State must be attached to or included in the application.
3. The address of the proposed business location of the applicant where such salvage operations are to be conducted, giving the street address, legal description and the total area in square feet available for use in such operation.

4. A statement as to whether retail sales will be made on the premises wherein such salvage operations are to be conducted.

164.03 LICENSE FEE. The annual fee for a salvage operator's license shall be \$250.00 which shall accompany the application therefor at the time it is filed in the office of the Clerk. In the event the application is denied by the Council, the sum of \$250.00 shall be returned to the applicant within 30 days from the date of such denial. The application shall be filed with the Clerk not less than ten days prior to any Council meeting held wherein the same shall be considered, in the manner hereinafter set forth. The fee may be prorated for the initial application upon approval of the Council.

164.04 PREMISES INSPECTION. Subsequent to the filing of the application for a salvage operator's license, the Clerk shall refer the same to the Fire Chief and the Building Inspector, each of whom shall cause the premises proposed to be used in such salvage operations to be inspected, and following such inspections, each shall submit written recommendations to the Council in connection therewith. Thereafter, the Council shall at either the next regular meeting or at a special meeting either grant or deny the application.

164.05 VALIDITY; RENEWAL. The license issued under the terms of this chapter shall be valid for a term of one year and shall expire on December 31 of the year in which same has been issued. Request by the licensee for renewal thereof shall be subject to the same procedure as that prescribed for initial issuance. The fee for such renewal shall be one hundred dollars (\$100.00) for the ensuing year.

164.06 LICENSE NONTRANSFERABLE. A salvage operator's license shall be required for each separate location at which salvage operations are proposed to be conducted, and the fee required shall be commensurate therewith. The license shall be nontransferable, and in the event of the discontinuance of such operations by the licensee, either voluntarily or involuntarily, no refund for the unused portion of the period for which same was issued shall be granted.

164.07 ACCESS ROADS. There shall be on site access road or paths to provide adequate entrances and exits for fire and emergency vehicles.

164.08 ENCLOSURE REQUIRED. The operations of a wrecking yard or salvage yard shall be carried on within a fully enclosed building, except that such operations may be conducted outside a building but within the premises of the licensee, provided the premises are fully surrounded and enclosed by a fence not less than eight feet high, constructed of solid covered fencing materials. The fence may be constructed on the property line. The requirement as to the type and kind of fencing shall not be applicable to fencing surrounding the premises of a wrecking yard or salvage yard in existence at the time of the enactment of the ordinance codified by this chapter; provided, however, that at such time as the repair to an existing fence shall exceed twenty-five percent (25%) of the total fence in place, such repair shall be in accordance with and meet the requirements of this section as to such fence construction. It is unlawful for any junk, salvage vehicles, wrecking materials or equipment to be stored or parked on any portion of the City's public street right-of-way or parking area thereof, or for the same to be stored or parked outside on private property unless in a fully enclosed building or fence as prescribed in this section.

164.09 SANITARY PREMISES. The holder of a license granted under the terms of this chapter shall maintain the premises in and upon which such person's business operations are

conducted in as sanitary a manner and condition as are reasonable and consistent therewith, but in no event shall the licensee permit or suffer any condition to exist which by its nature constitutes a health or safety hazard to surrounding property or persons.

164.10 COMPLIANCE WITH OTHER PROVISIONS. The provisions of this chapter in no way relieve the holder of a license issued under this chapter from compliance with other provisions, rules or regulations of the City, to which the licensee may be subject, nor shall said person be relieved from the necessity of procuring such other licenses as may required by the City by reason of the nature and extent of the operations of the licensee.

164.11 PURCHASE FROM MINOR UNLAWFUL. It is unlawful for any salvage operator, as defined in this chapter, to purchase any goods or materials or vehicles of any kind or nature whatsoever from a minor without having secured the written consent of one of the parents or the legal guardian of the minor.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS

GENERAL

CHAPTER 165

MASSAGE PARLORS

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165.02 Permit Required	165.15 Employees
165.03 Exceptions	165.16 Inspections
165.04 Application and Fee	165.17 Place of Business
165.05 Contents of Application	165.18 Hours of Operation
165.06 Facilities Necessary	165.19 Name of Business
165.07 Permit Procedures	165.20 Revocation and Suspension
165.08 Inspection of Premises	165.21 Sale or Transfer
165.09 Issuance of Permit	165.22 Applicability
165.10 Appeal	165.23 Unlawful Activities
165.11 Permit Not Transferable	165.24 Practice Without Permit Unlawful
165.12 Display of Permit	165.25 Responsibility of Owner
165.13 Validity and Renewal of Permit	165.26 Nuisance Declared

165.01 DEFINITIONS. For the purpose of the provisions regulating bath, sauna baths, massage establishments and similar businesses set forth in this chapter, the following words and phrases have the meanings set forth in this section, unless it is apparent from the context that a different meaning is intended:

1. “Massage” means a method of procedures upon the external parts of the body, consisting of rubbing, stroking, kneading or tapping with the hand or any instrument.
2. “Massage establishment” means an establishment having a fixed place of business where any person engages in, conducts or carries on or permits to be engaged in, conducted or carried on, any business of giving Turkish, Russian, Swedish, vapor, sweat, electric, salt or any other kind or character of baths, where alcohol rub, fomentation, baths, manipulation of the body or similar procedures are given.
3. “Massage technician” or “technician” means any person, male or female, who administers to another person, for any form of consideration, a massage alcohol rub, fomentation, bath or electric massage procedure, manipulation of the body or other similar procedure.

165.02 PERMIT REQUIRED. It is unlawful for any person to engage in, conduct or carry on or to permit to be engaged in, conducted or carried on, in or upon any premises within the City, the business of a massage establishment or to render, or permit to be rendered massage services at a location removed from a massage establishment within the City in the absence of a permit issued pursuant to the provisions set forth in this chapter.

165.03 EXCEPTIONS. The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to any persons who are required to be licensed by the Iowa State Department of Health under Chapters 147 - 158 of the *Code of Iowa*. Persons who administer massage in conjunction with and on behalf of a school athletic department need not secure the permit required in Section 165.02 in order to perform such function for the school athletic department.

165.04 APPLICATION AND FEE. Any person desiring to obtain a permit to operate a massage establishment shall make application to the Clerk, who shall refer all such applications to the Police Chief for an investigation and recommendation. A nonrefundable fee of one hundred fifty dollars (\$150.00) shall accompany the submission of each application, to defray in part the costs of investigation and report. Any person desiring to obtain a permit to perform massage services or to act as a massage technician's aide shall make application to the Clerk, who shall refer all such applications to the Police Chief for an investigation and recommendation. A nonrefundable fee of thirty-five dollars (\$35.00) shall accompany the submission of each application, to defray in part the costs of investigation and report. A permit to perform massage services does not authorize the operation of a massage establishment. Any person permitted to perform massage services who desires to operate a massage establishment must separately apply for a permit therefor.

165.05 CONTENTS OF APPLICATION. Any applicant for a permit shall submit the following information:

1. The full name and present address of applicant;
2. The two previous addresses immediately prior to the present address of applicant, and the dates of residence at each;
3. Written statements of at least five bona fide adult residents of the City that the applicant is of good moral character;
4. Written proof that the applicant is over the age of eighteen (18);
5. Applicant's height, weight, color of eyes and hair;
6. Two recent color portrait photographs at least two inches by two inches, taken within the last six months;
7. Business, occupation or employment history of the applicant for the three years immediately preceding the date of the application;
8. The business license history of the applicant; whether such person, in previously operating in the City or another city or state under license has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;
9. All convictions and the reasons therefor;
10. A certificate from a medical doctor stating that the applicant has within thirty days immediately prior thereto been examined and found to be free of any contagious or communicable disease;
11. Such other identification and information as the Police Department may require in order to discover the truth of the matters specified as required to be set forth in the application.

Nothing contained in this chapter shall be construed to deny to the Police Department of the City the right to take the fingerprints and additional photographs of the applicant, nor shall anything contained in this chapter be construed to deny the right of the department to confirm the height and weight of the applicant.

165.06 FACILITIES NECESSARY. No permit to conduct a massage establishment shall be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:

1. A recognizable and legible sign shall be posted at the main entrance identifying the establishment as a massage establishment.
2. Minimum lighting shall be provided in accordance with the *Uniform Building Code* and, in addition, at least one artificial light of not less than forty watts shall be provided in each room or enclosure where massage services are performed on patrons.
3. Minimum ventilation shall be provided in accordance with the *Uniform Building Code*.
4. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be provided.
5. Hot and cold running water shall be provided at all times.
6. Closed cabinets shall be provided which cabinets shall be utilized for the storage of clean linen.
7. In any establishment in which massage services are rendered only to members of the same sex at any one time, such persons of the same sex may be placed in a single separate room or the operators of the massage establishment may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside the room or booth while massage services are being performed.
8. Adequate bathing, dressing, locker, and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, and a minimum of one toilet and one wash basin shall be provided by every massage establishment; provided, however, if male and female patrons are to be served simultaneously at the establishment, a separate massage room or rooms, separate dressing facilities and separate toilet facilities shall be provided for male and female patrons.
9. All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
10. Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.
11. A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times and shall be located within or as close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin sanitary towels placed in permanently installed dispensers.
12. Proof of compliance with all applicable provisions of this Code of Ordinances shall be provided.

165.07 PERMIT PROCEDURES. Any applicant for a permit to operate a massage establishment, pursuant to these provisions, shall personally appear at the police station of the City and produce proof to the Police Department that the one hundred fifty dollar (\$150.00)

application fee has been paid to the Clerk, and thereupon the applicant shall present to the Police Department the application containing the information described in Section 165.05. The Police Chief shall have a reasonable time, not to exceed thirty days, within which to investigate the application and the background of the applicant. Based on such investigation the Police Chief shall render a recommendation as to the approval or denial of the permit to the Mayor. Any applicant for a permit to perform massage services or to act as a massage technician's aide, pursuant to these provisions, shall personally appear at the Police Department of the City and produce proof to the Police Department that the thirty-five dollar (\$35.00) application fee has been paid to the Clerk, and thereupon the applicant shall present to the Police Department the application containing the information described in Section 165.05. The Police Chief shall have a reasonable time, not to exceed thirty days, within which to investigate the application and the background of the applicant. Based on such investigation the Police Chief or representative shall render a recommendation as to the approval or denial of the permit to the Mayor.

165.08 INSPECTION OF PREMISES. The Building Inspector and the Fire Department shall inspect the premises proposed to be devoted to the massage establishment and shall make separate recommendations to the Mayor concerning compliance with the provisions of this chapter.

165.09 ISSUANCE OF PERMIT. The Mayor, after receiving the recommendations of the Building Inspector and Fire Department, shall grant a permit to the establishment if all requirements for a massage establishment described in this chapter are met and shall issue a permit to all persons who have applied to perform massage services or to act as aides unless it appears that any such person has deliberately falsified the application or unless it appears that the record of such person reveals a conviction of a felony or a crime involving moral turpitude.

165.10 APPEAL. Any person denied a permit pursuant to these provisions by the Mayor may appeal to the Council in writing within ten days from the action, stating reasons why the permit should be granted. The Council may grant or deny the permit and such decision shall be final upon the applicant. Also, the Council may elect on its own motion to review any determination of the Mayor granting or denying a permit. The Council shall hear the appeal not less than seven or more than twenty-one days following the filing of the appeal.

165.11 PERMIT NOT TRANSFERABLE. All permits issued under this chapter are nontransferable; provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions of Section 165.14.

165.12 DISPLAY OF PERMIT. Every person to whom or for which a permit has been granted shall display the permit in a conspicuous place so that the same may be readily seen by persons entering the premises where the massage, bath, or treatment is given.

165.13 VALIDITY AND RENEWAL OF PERMIT. A permit shall be valid for a period of one year, unless suspended or revoked pursuant to the provisions of this chapter. The fee for renewal shall be one hundred dollars (\$100.00).

165.14 CHANGE OF LOCATION. A change of location of any premises may be approved by the Police Chief and the Building Inspector, provided all ordinances and regulations of the City are complied with and the change of location fee of fifty dollars (\$50.00) is deposited with the City.

165.15 EMPLOYEES. It is the responsibility of the holder of the permit for the message establishment or the employer of any persons purporting to act as message technicians to insure that each person employed as a message technician shall first have obtained a valid permit pursuant to this chapter. No registered message technician aide may independently practice the acts of message, but said person may as a message technician aide, assist a technician in the acts constituting the practice of message under the immediate personal supervision and employment of a registered message technician, but such aide may assist only while the message technician is personally present with the patron, and such aide may not perform message services. Any message technician aide shall comply with the requirements of Section 165.05.

165.16 INSPECTIONS. The Building Inspector and Fire Department shall from time to time and at least twice each year make an inspection of each message establishment in the City for the purpose of determining that the provisions of this chapter are complied with.

165.17 PLACE OF BUSINESS. A person holding a permit under this chapter may perform the functions of a message technician only in a message establishment for which a permit has been secured according to the provisions of this chapter. Violations of this provision shall constitute a misdemeanor.

165.18 HOURS OF OPERATION. A message establishment shall not be operated between the hours of 11:00 p.m. and 9:00 a.m. Violation of this provisions shall constitute a misdemeanor.

165.19 NAME OF BUSINESS. No person authorized to do business as provided in this chapter shall operate under any name or conduct business under any designation not specified in the permit.

165.20 REVOCATION AND SUSPENSION. No permit shall be revoked until after a hearing has been held before the City Council to determine just cause for such revocation; provided, however, the Mayor may order any permits suspended pending such hearing, and it is unlawful for any person to carry on the business of a message technician or to operate as a message establishment depending upon the particular type of permit which as been suspended until the suspended permit has been reinstated by the Council. Notice of such hearing shall be given in writing and served at least five days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of such permit, or against the business carried on by the permittee at the message establishment, and shall state the time and place where such hearing will be held. The notice shall be served upon the permit holder by delivering the same to such person or by leaving such notice at the place of business or residence of the permit holder in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found, and the service of such notice cannot be made in the manner provided in this section, a copy of such notice shall be mailed, postage fully prepaid, addressed to the permit holder at the place of business or residence at least five days prior to the date of such hearing.

165.21 SALE OR TRANSFER. Upon the sale or transfer of any interest in a message establishment, the permit shall be null and void. A new application shall be made by a person desiring to own or operate the message establishment. A fee of five dollars (\$5.00) shall be payable for each such application involving sale or other transfer of any interest in an existing message establishment. The provisions of this chapter shall apply to any person applying for a message establishment permit for premises previously used as such establishment. Any such

sale or transfer of any interests in an existing message establishment or any application for an extension or expansion of the building or other place of business of the message establishment shall require inspection and shall require compliance with the provisions of this chapter.

165.22 APPLICABILITY. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the described activities were established before or after June 14, 1976.

165.23 UNLAWFUL ACTIVITIES. It is unlawful for any person to message any other person or give or administer any bath or baths in such a manner as to commit a lewd act. "Lewd" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is female, breast. Any violation of this provision shall be deemed grounds for the revocation of the permit granted under this chapter.

165.24 PRACTICE WITHOUT PERMIT UNLAWFUL. Every person, except those persons who are specifically exempt by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator or whether acting as a mere helper for the owner, employee or operator or whether acting as a participant or worker in any way who gives messages or conducts a message establishment or room, or who gives or administers or who practices the giving or administering of steam baths, electric light baths, electric tub baths, shower baths, sponge baths, vapor baths, fomentation, sun baths, mineral baths, alcohol rubs, Russian, Swedish or Turkish baths, or any other type of baths, salt glows or any type of therapy or who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit to do so from the City or shall violate any provisions of this chapter is guilty of a misdemeanor.

165.25 RESPONSIBILITY OF OWNER. Any owner, operator, manager or permittee in charge or in control of a message establishment who knowingly employs a person performing as a message technician as defined in this chapter who is not in possession of a valid permit or who allows such an employee to perform, operate or practice within such a place of business is guilty of a misdemeanor.

165.26 NUISANCE DECLARED. Any message establishment operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such message establishment and restrain and enjoin any person from operating, conducting or maintaining a message establishment contrary to the provisions of this chapter.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 166

SEXUALLY ORIENTED BUSINESSES

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166.04 License Required; Temporary License	166.15 Loitering; Exterior Lighting and Monitoring Requirements
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166.07 Periodic Inspection	166.18 Scierter Requirement to Prove Violation or Liability
166.08 Expiration of License	166.19 Siting Criteria
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166.11 Right to Hearing; Prompt Judicial Review; Provisional License	

166.01 JURISDICTION. The provisions of this chapter apply to all of the territory of the City.

166.02 DEFINITIONS. For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. “Adult bookstore,” “adult novelty store” or “adult video store” means a commercial establishment that has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations that are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas”;

B. Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

The terms “adult bookstore,” “adult novelty store” or “adult video store” also include a commercial establishment that regularly maintains one or more “adult arcades.” “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized

by their emphasis upon matter exhibiting or describing “specified sexual activities” or “specified anatomical areas.”

2. “Adult cabaret” means a nightclub, bar, juice bar, restaurant, bottle club, or business or entity that is operated with the emphasis on observation or viewing of nude or semi-nude performances – whether the performers receive compensation or not and whether or not alcoholic beverages are served – that regularly feature persons who appear nude or semi-nude.

3. “Adult motel” means a motel, hotel, or similar commercial establishment that:

A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, other photographic reproductions, or live performances that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and that advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on- or off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio, or television; or

B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

4. “Adult motion picture theater” means a commercial establishment in which films, motion pictures, videocassettes, slides, or similar photographic reproductions that are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.

5. “Controlling interest” means the power, directly or indirectly, to direct the operation, management, or policies of a business or entity, or to vote twenty percent (20%) or more of any class (or combination of multiple classes that aggregate in amount of 20% or greater) of voting shares of a business. The ownership, control, or power to vote 20% or more of any class of voting shares of a business (or a combination of multiple classes that aggregate in an amount of 20% or greater) shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

6. “Distinguished or characterized by an emphasis on” means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films that are distinguished or characterized by an emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities. Similarly, when the phrase refers to a performance that is distinguished or characterized by an emphasis upon the exhibition or showing of specified sexual activities or specified anatomical areas, the performance so described is one whose dominant or principal character and theme are the exhibition or showing of specified anatomical areas or specified sexual activities.

7. “Employ,” “employee” and “employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. “Employee” does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
8. “Establish” or “establishment” means and includes any of the following:
- A. The opening or commencement of any sexually oriented business as a new business.
 - B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
 - C. The addition of any sexually oriented business to any other existing sexually oriented business.
9. “Licensee” means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed on an application for a sexually oriented business license. In case of an “employee,” it means the person in whose name the sexually oriented business employee license has been issued.
10. “Nudity” or “state of nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
11. “Operate” or “cause to operate” means to cause to function or to put or keep in a state of doing business. “Operator” means any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.
12. “Regularly features” or “regularly shows” means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.
13. “Semi-nude” or “state of semi-nudity” means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft, cleavage, pubic area, vulva, as well as the nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition does not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.
14. “Semi-nude model studio” means any place in which a person regularly appears in a state of semi-nudity and is provided money or any other form of consideration to be so observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of semi-nudity did so in a modeling class operated:

- A. By a college, junior college, or university supported entirely or partly by taxation;
 - B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - C. In a structure:
 - (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - (2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.
15. “Sexually oriented entertainment activity” means the sale, rental or exhibition, for any form of consideration, of books, films, videocassettes, magazines, periodicals, or live performances that are characterized by any emphasis on the exposure or display of specific sexual activity or specific anatomical areas.
16. “Specified anatomical areas” means human genitals, pubic region, anus, cleft of the buttocks or the nipple or areola of the female breast.
17. “Specified criminal activity” means any of the following offenses:
- A. Section 728.2[†] (dissemination and exhibition of obscene materials to minors); Section 728.3 (admitting minors to premises where obscene matter is exhibited); Section 728.4 (rental or sale of hard core pornography); Section 728.5 (public indecent exposure in certain establishments); Section 728.12 (sexual exploitation of a minor); Section 709.2-4 (sexual abuse); Section 709.8 (lascivious acts with a child); Section 709.9 (indecent exposure); Section 709.12 (indecent contact with a child); Section 709.14 (lascivious conduct with a minor); Section 709C.1 (criminal transmission of human immunodeficiency virus); Section 711.4 (extortion); Section 725.1-4 (prostitution, pimping, pandering, leasing premises for prostitution); or criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses in other jurisdictions that, if the acts would have constituted any of the foregoing offenses if the acts had been committed in Iowa, for which:
 - (1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (2) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

[†] All citations refer to sections in the *Code of Iowa*.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

18. "Specified sexual activity" means any of the following:
 - A. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
 - B. Fondling, caressing, or other erotic touching either by the individual or anyone else of the specific anatomical areas specified herein; or
 - C. Exposure of the specific anatomical areas; or
 - D. Excretory functions as a part of or in connection with any of the activities described in A, B or C above.
19. "Transfer of ownership or control" (of a sexually oriented business) means any of the following:
 - A. The sale, lease, or sub-lease of the business;
 - B. The transfer of shares that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - C. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
20. "Video room" means the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

166.03 CLASSIFICATIONS. Sexually oriented businesses shall be classified as follows:

1. Adult bookstores, adult novelty stores, adult video stores;
2. Adult cabarets;
3. Adult motels;
4. Adult motion picture theaters;
5. Semi-nude model studios.

166.04 LICENSE REQUIRED; TEMPORARY LICENSE.

1. It is unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.
2. It is unlawful for any person to be an "employee," as defined in this chapter, of a sexually oriented business in the City without a valid sexually oriented business employee license.
3. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Building Inspector a completed application made on a form provided by the Building Inspector. The application shall be signed by the applicant and notarized. An application shall be considered complete when it contains the information required in Paragraphs A through F as follows:

- A. The applicant's full true name and any other names used in the preceding five (5) years.
- B. Current business address or another mailing address of the applicant.
- C. Written proof of age, in the form of a copy of a birth certificate and a picture identification document issued by a governmental agency.
- D. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address, and phone number of the sexually oriented business.
- E. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- F. A statement of whether the applicant has been convicted or has pled guilty or *nolo contendere* to any "specified criminal activity" as defined in this chapter, and if so, the specific criminal activity involved, including the date, place and jurisdiction of each, as well as the dates of conviction and release from confinement, where applicable.

The information provided pursuant to Paragraphs A through F of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the Building Inspector within ten (10) working days of a change of circumstances that would render the information originally submitted false, incomplete or reasonably misleading.

- 4. An application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Sections 166.14 and 166.17 of this chapter shall submit a diagram meeting the requirements of those sections.
- 5. If a person who wishes to operate a sexually oriented business is an individual, such person shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, each other person who will manage, supervise, or control the premises, and each other person who will participate in decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 166.05 and each applicant shall be considered a licensee if a license is granted.
- 6. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the Building Inspector on a confidential basis, except that such information may be disclosed to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

166.05 ISSUANCE OF LICENSE.

- 1. Upon the filing of a completed application under Section 166.04(3) for a sexually oriented business license, the Building Inspector shall immediately issue a

temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the Building Inspector shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Building Inspector shall approve the issuance of a license unless:

- A. An applicant is less than eighteen (18) years of age.
- B. An applicant has failed to provide information as required by Section 166.04 for issuance of a license or has falsely answered a question or request for information on the application form.
- C. The license application fee required by Section 166.06 has not been paid.
- D. An applicant has been found guilty of a violation of Section 166.07(1), Section 166.10(2), or Section 166.17(1), (2) or (3) of this chapter within the previous year.
- E. The sexually oriented business premises is not in compliance with the interior configuration requirements of this chapter or is not in compliance with locational requirements established in this chapter and the applicable Zoning Code provisions.
- F. An applicant has been convicted of a “specified criminal activity,” as defined in this chapter.

2. Upon the filing of a completed application for a sexually oriented business employee license, the Building Inspector shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant the license. Within twenty (20) days of the initial filing date of the receipt of a completed application, the Building Inspector shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Building Inspector shall approve the issuance of a license unless one or more of the following is found to be true.

- A. An applicant is less than eighteen (18) years of age.
- B. An applicant has failed to provide information required by Section 166.04 for issuance of a license or has falsely answered a question or request for information on the application form.
- C. The license application fee required by Section 166.06 has not been paid.
- D. An applicant has been shown to have committed a violation of Section 166.07(1), Section 166.10(2) or Section 166.17(1), (2) or (3) of this chapter within the previous year.
- E. An applicant has been convicted of a “specified criminal activity” as defined in this chapter.

3. The license, if granted, shall state on its face the name of the person to whom it is granted, the number of the license issued to the licensee, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business employee shall keep the employee's

license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other City official performing functions connected with the enforcement of this chapter.

166.06 FEES. A filing fee in accordance with the following fee schedule shall be charged for each application for initial license and annual renewals to assist in deferring the cost of the administrative review. The applicant shall be held responsible for submitting the required fees upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full. The fee schedule is as follows:

Sexually Oriented Business License, Initial License.....	\$300.00
Sexually Oriented Business License, Annual Renewal.....	\$300.00
Sexually Oriented Business Employee's License, Initial License.....	\$100.00
Sexually Oriented Business Employee's License, Annual Renewal....	\$100.00

Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

166.07 PERIODIC INSPECTION.

1. Sexually oriented businesses and sexually oriented business employees shall permit agents of the City to inspect from time to time on an occasional basis the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial, suspension or revocation. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.
2. The provisions of this section do not apply to areas of an adult motel that are currently being rented by a customer for use as a permanent or temporary habitation (of a duration of longer than ten (10) consecutive hours).

166.08 EXPIRATION OF LICENSE.

1. Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 166.04 and Section 166.06.
2. Application for renewal should be made at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

166.09 CAUSE FOR SUSPENSION.

1. The City shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has violated this chapter or has knowingly allowed an employee to violate this chapter.

2. The City shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has violated this chapter.

166.10 CAUSE FOR REVOCATION.

1. The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if the respective licensee commits two or more violations within a 12-month period.
2. The City shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license if:
 - A. The licensee has knowingly given false information in the application for a sexually oriented business license or a sexually oriented business employee license.
 - B. The licensee has knowingly allowed or engaged in possession, use, or sale of controlled substances on the premises.
 - C. The licensee has knowingly allowed or engaged in prostitution on the premises.
 - D. The licensee knowingly operated the sexually oriented business during a period of time when the license was suspended.
 - E. The licensee has knowingly allowed or engaged in any specified sexual activity in or on the licensed premises.
 - F. The licensee has knowingly allowed or engaged in behavior that negatively affects the health, safety or welfare of the residents of the City or otherwise in violation of this chapter.
3. A business licensee shall be liable for the acts of an employee only pursuant to the standard established in Section 166.18.
4. When, after the notice and hearing procedure described in Section 166.11, the Building Inspector revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for two (2) years from the date revocation becomes effective, provided that, if the conditions of Section 166.11(3) are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the Building Inspector finds that the basis for the revocation based on paragraph 2A of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under paragraphs B, C, D or E of subsection 2 of this section, an applicant may not be granted another license until at least two years have elapsed.

166.11 RIGHT TO HEARING; PROMPT JUDICIAL REVIEW; PROVISIONAL LICENSE.

1. If facts exist that warrant the denial, suspension or revocation of a license under this chapter, the Building Inspector shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend or revoke the license, including the grounds thereof, by personal delivery or by certified mail. The notification shall be directed to the most current business address or other mailing address on file with the Building Inspector for the respondent. Within ten (10) working days of the receipt

of such notice, the respondent may submit a request to the Building Inspector for a hearing before the Council to refute the grounds alleged by the City for denial, suspension or revocation of the license.

2. Within five (5) days of the receipt of respondent's written response, the Building Inspector shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding. Such hearing date must be held within twenty (20) working days of the receipt of respondent's written response. The Council shall conduct said hearing, at which respondent shall have the opportunity to present respondent's arguments, be represented by counsel if desired (at the respondent's own expense), present evidence and witnesses on his or her behalf, and cross examine any of the City's witnesses. The Building Inspector shall be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending or revoking the license. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and the proper administration of justice. The Council shall issue a written decision within five (5) business days after the hearing. If the decision is to deny, suspend or revoke the license, it shall state the reasons for such action, and the denial, suspension or revocation shall become final for purposes of appeal immediately, but shall not take effect or be enforced until thirty (30) days thereafter. If the decision is to grant the license, the City shall immediately issue a license to the respondent.

3. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to challenge or appeal such action or seek a declaration of rights concerning such action concerning this chapter, upon factual grounds or constitutional grounds or both, to a court of law within thirty (30) days after issuance of the Council's written decision. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin or seek a declaration of rights concerning this chapter or the City's denial, suspension or revocation of a license issued pursuant to this chapter, the City shall immediately issue the aggrieved party a provisional license. The City shall supply the court with any documents, reports or transcripts relevant to the lawsuit within fifteen (15) days after receiving notice of the lawsuit. The provisional license shall allow the aggrieved party to operate or continue operation of the sexually oriented business or to be employed or continue employment as a sexually oriented business employee, and will expire only upon the court's entry of a judgment on the merits of the aggrieved party's action to appeal, challenge, restrain or otherwise enjoin or seek a declaration of rights concerning this chapter or the City's denial, suspension or revocation of a license under this chapter.

4. If, in the alternative, the aggrieved party does not wish to bear the burden of initiating a court action, such person may, within thirty (30) days after the Council's written decision is issued, elect to require the City to file a declaratory action in a court of competent jurisdiction, seeking a declaration that the denial, suspension or revocation is valid and that this chapter is constitutionally sound. Such an election must be made in writing and be delivered to the City Attorney's Office within thirty (30) days of issuance of the Council's written decision. Upon the delivery of the election notice to the City Attorney's Office, the City shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to operate or continue operation of the sexually oriented business or to be employed or continue employment as a sexually oriented business employee, and

will expire only upon the court's entry of a judgment on the merits of the validity of this chapter and the City's denial, suspension or revocation decision.

5. This section shall be liberally construed to permit the uninterrupted operation of the sexually oriented business or the uninterrupted employment of the sexually oriented business employee under the terms and conditions of this chapter during the course of any court action challenging this chapter or an adverse licensing decision under this chapter until the court of law rules upon all of the aggrieved party's factual or constitutional claims.

166.12 TRANSFER OF LICENSE. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

166.13 HOURS OF OPERATION. No sexually oriented business, except for an adult motel, shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on a weekday, or between 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a sexually oriented business that holds a liquor license or retail beer permit entitling the holder to sell alcoholic liquor or beer on Sunday may remain open between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

166.14 REGULATIONS REGARDING EXHIBITION OF SEXUALLY EXPLICIT FILMS ON THE PREMISES.

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, that exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video characterized by an emphasis on the display of "specified sexual activities" or "specified anatomical areas" shall comply with the requirements contained in Section 166.04 of this chapter.

2. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

166.15 LOITERING; EXTERIOR LIGHTING AND MONITORING REQUIREMENTS. It shall be the duty of the operator of a sexually oriented business to: (a) post conspicuous signs stating that no loitering is permitted on such property; (b) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every two hours or inspecting such property by use of video cameras and monitors; and (c) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within a manager's station or at a cash register where an employee is regularly present. It is unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

166.16 APPLICABILITY TO EXISTING BUSINESSES. The provisions of this chapter apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date of the ordinance codified in this chapter.

166.17 LIVE PUBLIC NUDITY ON PREMISES.

1. It is a violation of this chapter for a licensee required to obtain a sales tax permit to knowingly or intentionally violate Section 728.5 of the *Code of Iowa*. It is a violation for any person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
2. It is a violation of this chapter for any employee to knowingly and intentionally appear semi-nude in a sexually oriented business unless the employee, while semi-nude, is at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.
3. It is a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any employee, while said employee is semi-nude in a sexually oriented business.
4. It is a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally touch a customer or the clothing of a customer or for a customer to knowingly and intentionally touch an employee or the clothing of an employee, while said employee is semi-nude in a sexually oriented business.
5. A sign in a form to be prescribed by the Building Inspector and summarizing the provisions of subsections 1 through 4 of this section shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry into the inside of the building.

166.18 SCIENTER REQUIREMENT TO PROVE VIOLATION OR LIABILITY.

Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the business premises, knew or reasonably should have known that such act was occurring and failed to prevent such act. It shall be a defense to liability under this chapter that the person to whom the violation is imputed was powerless to prevent the act.

166.19 SITING CRITERIA.

1. A person commits a violation of this chapter if that person operates or causes to be operated a sexually oriented business in any zoning district other than C-1, as defined and described in the Carter Lake Zoning District Regulations.
2. A person commits an offense if the person operates or causes to be operated a sexually oriented business within two thousand (2,000) feet of:
 - A. A church, synagogue, mosque, temple or building that is used primarily for religious worship and related religious activities.
 - B. A public or private educational facility, including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; ("school" includes

any school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school);

C. A public park, public playground, public plaza or cemetery; or

D. Another sexually oriented business.

3. A person commits an offense if the person operates or causes to be operated a sexually oriented business within five hundred (500) feet of a residential “R” district, as defined in the Carter Lake Zoning District Regulations.

4. For the purpose of subsection 2 of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a use listed in such subsection. The presence of a county, city or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

5. For purpose of paragraph D of subsection 2 of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

6. Any sexually oriented business lawfully operating on the effective date of the ordinance codified in this chapter¹ that is in violation of subsection 1 through 4 of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year from the date of enactment of this chapter, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within two thousand (2,000) feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

7. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection 2 of this section within two thousand (2,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked.

¹ **EDITOR'S NOTE:** The effective date of this chapter is January 3, 2005.

[The next page is 1005]

TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 167

PUBLIC DANCES

167.01 Compliance Required
167.02 License Required
167.03 License Application
167.04 License Fee
167.05 Restrictions
167.06 License Not Assignable

167.07 Display Of License
167.08 Standards For Dance Premises
167.09 Description of Premises
167.10 Disorderly Conduct
167.11 Hours of Operation
167.12 Suspension or Revocation of License

167.01 COMPLIANCE REQUIRED. Any dance held within the City to which the public may gain admission, with or without payment of a fee, shall be subject to supervision and regulation as required by this chapter.

167.02 LICENSE REQUIRED. No person shall conduct, host, organize or sponsor a dance open to the public without first obtaining a license as provided in this chapter. This chapter, however, shall not be deemed to apply to dance clubs with a specific membership or to persons conducting dance classes.

167.03 LICENSE APPLICATION. All applicants for a public dance license shall apply in writing to the Clerk. The Clerk shall forward the application to the appropriate departments for inspections. All applications shall be made in the name of the owner of the business, whether an individual, a partnership, or a corporation, and shall contain the following:

1. The full name, residence address, business address, date of birth and social security number of the applicant, and when the applicant is a partnership or corporation, of the partners and officers.
2. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of the officers, directors and each stockholder holding more than ten percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the subsections of this section pertaining to a corporate application apply.
3. The name and address of the owner of the building where such dance will be located.

Upon receipt of departmental inspections and if the Clerk finds that the applicant has fully complied with all requirements of this chapter and all applicable ordinances and codes regulating fire, buildings, health and zoning, and that the applicant is of good moral character, the Clerk shall approve the application and shall authorize the issuance of a license to conduct public dances.

167.04 LICENSE FEE. A license fee of \$50.00 per dance shall be collected prior to the issuance of a license, to all for-profit businesses.

167.05 RESTRICTIONS. Every annual or occasional license authorized under this chapter shall be limited to a single property or place designated in the license. No dance shall be held by the licensee at any place other than so designated. For the purpose of this chapter, a single property or place shall include the dance room, check room, lounge or other room constituting a suite in connection therewith.

167.06 LICENSE NOT ASSIGNABLE. The licenses granted under this chapter shall be personal to the licensee and shall not be assignable.

167.07 DISPLAY OF LICENSE. No public dance shall be conducted unless the license required therefor is conspicuously displayed on the walls of the place designated therein so that all persons visiting the premises may readily see it.

167.08 STANDARDS FOR DANCE PREMISES.

1. The premises for any public dance shall provide for actual dancing a floor space of at least 100 square feet. The room where dancing is conducted shall be illuminated to a minimum of two foot-candles, as measured by a photometer at a plane 30 inches above the floor, at any point in the room. Such building or structure shall also be equipped with two exits that will furnish ample protection in case of fire, and all materials used for interior decoration shall be fire resistant or so chemically treated as to be fire resistant.
2. The premises of a beer or wine permit holder or liquor license holder, where public dancing is permitted, shall be subject to other structural requirements as may be required by the provisions of this Code of Ordinances[†] or State law.

167.09 DESCRIPTION OF PREMISES. The premises used for a public dance shall be described in the license by street name and number or other definite description.

167.10 DISORDERLY CONDUCT. No dance licensee or employee or agent thereof shall permit such licensed premises to become disorderly. The term “disorderly” as used in this section shall have the meaning contained in Section 45.05 of this Code of Ordinances.

167.11 HOURS OF OPERATION. No person shall permit any public dance to remain open or permit any public dancing between the hours of 2:00 a.m. and 6:00 a.m., Monday through Saturday, and between the hours of 2:00 a.m. and 8:00 a.m. on Sunday.

167.12 SUSPENSION OR REVOCATION OF LICENSE. Any license issued pursuant to this chapter may be suspended or revoked for violations of this chapter or any other chapter of this Code of Ordinances.

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[†] **EDITOR’S NOTE:** See Section 146.08 for additional regulations for dances on premises where beer, wine or liquor is sold.

TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 168

INTRUSION ALARMS

168.01 Definitions

168.02 Alarm System Requirements Generally

168.03 Permits Required

168.04 Applications; Fee For Permit

168.05 Issuance of Permit

168.06 Term of Permit and Renewal

168.07 Inspection of Alarm System

168.08 False Alarm Fees

168.09 Suspension of Permits

168.10 Reinstatement After Suspension

168.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Agent” means a natural person who is designated by the principal to be responsible for premises protected by an alarm system during the principal’s absence or unavailability.
2. “Alarm business” means the business of any person selling, monitoring, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm in or on any building, structure or facility.
3. “Alarm system” means any assembly of equipment, mechanical or electrical, arranged to designate the occurrence of an entry or attempted entry into the area protected by the system, resulting in a signal to which the police would be expected to respond.
4. “Alarm user” means the person in control of any building, structure or facility who purchases, leases, contracts for or otherwise obtains an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.
5. “Annunciator” means that part of an alarm system which communicates the fact that the system has been triggered.
6. “False alarm” means an alarm signal eliciting an urgent response by police when a situation requiring an urgent response does not, in fact, exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business or alarm user. The burden of proving that such alarm was not a false alarm shall be on the alarm business or alarm user.
7. “Local alarm system” means an alarm system which, when activated, causes an audible and/or visual signaling device to be activated and is intended to be seen and/or heard by others outside of the protected premises.
8. “Permit term” means a twelve-month period beginning on the date of issuance of the alarm permit and ending twelve calendar months thereafter.

9. "Principal" means the person whose premises are protected by an alarm system. In the event that a building having more than one tenant is protected by a single alarm system, the term "principal" means the building owner.

168.02 ALARM SYSTEM REQUIREMENTS GENERALLY.

1. No alarm system shall be installed, used or maintained in violation of any of the requirements of this chapter.
2. The holder of an alarm system permit shall be responsible for training and retraining all employees, family members and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor. Such training shall include procedures and practices to avoid accidental alarms and steps to follow in the event the system is accidentally triggered.
3. The holder of an alarm system permit shall be responsible, at all times, for the proper maintenance and repair of the system and for the repair or replacement of any component, method of installment, design feature or like condition which may give rise to a false alarm.
4. Each alarm system shall be so programmed that each audible annunciator will automatically silence within fifteen minutes after being activated, and will not sound again unless a new act or circumstance triggers a sensor.
5. No test of an alarm system incorporating an audible annunciator shall be conducted between the hours of 8:00 p.m. of any day and 7:00 a.m. of the following day.
6. The application for an alarm system permit shall list the name and phone number of three agents having access to the premises who may be notified and assist the police in the event the alarm is activated.

168.03 PERMITS REQUIRED. It is unlawful for any person to use or operate any alarm system without a current, valid permit therefor.

168.04 APPLICATIONS; FEE FOR PERMIT. Each application for an alarm system permit or renewal shall be made on a form prescribed by the Clerk and shall contain the following information:

1. The name, address and telephone number of the principal of the protected premises.
2. The type of premises (home, office, variety store, etc.) and any business name by which the premises is known.
3. The address of the protected premises, including, if it is in a residential, commercial or industrial complex (office building, apartment house, shopping center, etc.) any name by which the complex is commonly known.
4. The names, addresses and telephone numbers, including home phone numbers, of three agents.

The fee for the permit shall be as established by resolution of the Council.

168.05 ISSUANCE OF PERMIT. Upon receipt by the Clerk of the permit application and fee, the Police Chief or an individual designated by the Police Chief shall undertake

whatever investigation deemed necessary with respect to the permit. If it appears to the Police Chief that the proposed system will comply with the provisions of this chapter, the Clerk shall issue to the applicant a permit setting forth the expiration date of the permit. The City shall not, by the issuance of any alarm system permit, be obligated to respond or accord any priority to an alarm from such system.

168.06 TERM OF PERMIT AND RENEWAL.

1. Alarm system permits shall be for a one-year period from and after the date of their issuance; permits may be renewed for a consecutive additional permit term in the same manner as original permits were obtained.
2. An alarm system permit shall automatically terminate upon any change of principal or protected premises. No permit shall be transferred to another principal or protected premises. No refunds will be given on termination or suspension of any permit for any reason.
3. Renewal permits shall be dated on the date of issue.

168.07 INSPECTION OF ALARM SYSTEM. Prior to issuing an alarm system permit, and at any time thereafter during the term thereof, the Police Chief may inspect any alarm system for which a permit is required.

168.08 FALSE ALARM FEES. As a condition of any alarm system permit issued under the provisions of this chapter, the permittee shall pay to the City within thirty (30) days of invoice for any false alarm generated by the permittee's alarm system a fee in an amount established by resolution of the Council.

168.09 SUSPENSION OF PERMITS. The following shall be grounds for suspension by the Police Chief of any permit issued pursuant to this chapter.

1. Any false or incomplete statement made on the permit application;
2. Failure to pay a false alarm fee within the time required by Section 168.08;
3. Installation or use of any alarm system in violation of any requirement of this chapter;
4. Failure to provide current information as required in this chapter.

If the Police Chief determines that there is cause for the suspension of a permit, the Police Chief shall mail a notice of suspension to the principal, stating that the suspension will be effective fifteen (15) days after the date of mailing.

168.10 REINSTATEMENT AFTER SUSPENSION. Except as otherwise provided herein, a principal whose alarm system permit has been suspended may have a permit reinstated upon payment of a reinstatement fee in an amount established by resolution of the Council.

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TITLE VI – REGULATION OF BUSINESS AND VOCATIONS GENERAL

CHAPTER 169

LICENSING OF TRADESMEN

169.01 License Required
169.02 Definitions

169.03 Proof of Licensure and Insurance/Bond

169.01 LICENSE REQUIRED. No tradesmen shall be entitled to perform services on properties located within the City limits without first being licensed in their profession either by the City of Council Bluffs, Iowa, or the City of Omaha, Nebraska. Each tradesman shall provide proof of said licensure to the City Building Inspector of Carter Lake and shall provide proof of insurance before any building permit may be issued to the homeowner or to the contractor or tradesman for the work intended to be performed within the City. This chapter applies to and covers the following trades:

1. Air conditioning commercial master
2. Air conditioning residential master / journeyman
3. Apprentice of the mechanical trade
4. Boiler master
5. Gas master
6. HARV master
7. HARV “C” master
8. HARV journeyman
9. Licensed mechanical journeyman
10. Mechanical contractor
11. Mechanical master
12. Pipefitter journeyman
13. Pipefitter master
14. Refrigeration journeyman
15. Refrigeration master
16. Registered air conditioning commercial master
17. Registered air conditioning residential master
18. Registered mechanical journeyman
19. Registered limited master
20. Registered mechanical master
21. Registered sheet metal master
22. Sheet metal journeyman
23. Sheet metal master
24. Unlimited master.

169.02 DEFINITIONS. The definitions of the trades listed above will be recognized as the definitions used by the City of Council Bluffs, Iowa, or the City of Omaha, Nebraska, in their licensing procedures.

169.03 PROOF OF LICENSURE AND INSURANCE/BOND. If the proposed tradesman cannot provide the proof of licensure and insurance/bond, the Building Inspector shall not issue a building permit for the work to be performed.

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TITLE VII – TRANSPORTATION

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TITLE VII – TRANSPORTATION STREETS AND ALLEYS

CHAPTER 175

STREET USE AND MAINTENANCE

175.01 Removal of Warning Devices

175.02 Obstructing or Defacing

175.03 Placing Debris On

175.04 Playing In

175.05 Traveling on Barricaded Street or Alley

175.06 Use for Business Purposes

175.07 Washing Vehicles

175.08 Burning Prohibited

175.09 Excavations

175.10 Maintenance of Parking or Terrace

175.11 Failure to Maintain Parking or Terrace

175.12 Dumping of Snow

175.13 Driveway Culverts

175.01 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)

175.02 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)

175.03 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, dirt, mud, 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)

175.04 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])

175.05 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. The Council shall designate by resolution which street or streets shall be closed.

175.06 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 Police Chief.

175.07 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.

175.08 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.

175.09 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. Work shall be started within one week after the date of issuance of the permit.
 - E. Each application shall contain an agreement signed by the applicant, in which the applicant agrees to perform all work in a good and workmanlike manner and in accordance with the rules and specifications established by the City Maintenance Department and on file in the office of the Clerk.

If an emergency arises in which it becomes necessary to make an immediate excavation in order that the public safety be preserved, then, in that event, it shall not be necessary to secure a permit prior to making the excavation; provided, however, the permit shall be secured immediately upon termination of the emergency.

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. On main thoroughfares there shall at all times be sufficient traffic lanes open to permit a substantially normal traffic flow. Unless this can be accomplished, the work shall be performed only between the hours of 9:00 a.m. and 4:00 p.m. or between midnight and 7:00 a.m. In the event the work is of an emergency nature, the Maintenance Department Supervisor may authorize the work done other hours and may request assistance from the Police Department to direct traffic.
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 ten thousand dollars (\$10,000.00) 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 ten thousand dollars (\$10,000.00) 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. Comprehensive General Liability - \$500,000.00.
- B. Bodily Injury - \$300,000.00 per accident.
- C. 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 Fee. A permit fee of one hundred dollars (\$100.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of ten thousand dollars (\$10,000.00) to guarantee such compliance.

14. Violations. Any person who fails to comply with the terms and conditions of the permit or violates any of the provisions of this section shall not be granted another excavation permit without the prior approval of the Maintenance Department Supervisor.

175.10 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])

175.11 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])

175.12 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. 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 on to the parking area, sidewalk, or driveway of another property owner.

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

175.13 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.

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**TITLE VII – TRANSPORTATION
STREETS AND ALLEYS**

CHAPTER 176

CONTROLLED ACCESS FACILITIES

176.01 Access Controls Imposed
176.02 Access Approval

176.03 Construction of Barriers

176.01 ACCESS CONTROLS IMPOSED. Ingress to, from or across Iowa Primary Road No. 165, to or from abutting lands, and egress to, from or across the highway to or from abutting lands is hereby prohibited, except as follows:

1. At such points designated and permitted by the Iowa Department of Transportation, and upon such terms and conditions as may be specified from time to time;
2. Access rights and rights-of-way acquired by the Iowa Department of Transportation by purchase or condemnation;
3. Changes of physical features of the highway which are authorized by the Council after approval has been secured by the Council from the Iowa Department of Transportation.

176.02 ACCESS APPROVAL. No access ways shall be granted or permitted by the City without the approval of the Iowa Department of Transportation.

176.03 CONSTRUCTION OF BARRIERS. The City authorizes the Iowa Department of Transportation to construct and preserve, within the limits of the highway, any physical barriers that it deems necessary to prohibit or eliminate unlawful means of access to or use of the highway facility by pedestrian or vehicular traffic or for any other purpose.

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TITLE VII – TRANSPORTATION STREETS AND ALLEYS

CHAPTER 177

BUILDING NUMBERING

177.01 Definitions

177.02 Owner Requirements

177.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

177.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Building Inspector, with approval of the Planning and Zoning Commission.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

177.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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TITLE VII – TRANSPORTATION STREETS AND ALLEYS

CHAPTER 178

NAMING OF STREETS

178.01 Naming New Streets
178.02 Changing Name of Street
178.03 Recording Street Names

178.04 Official Street Name Map
178.05 Revision of Street Name Map

178.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

178.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

178.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

178.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: “This is to certify that this is the Official Street Name Map referred to in Section 178.04 of the Code of Ordinances of Carter Lake, Iowa.”

178.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: “On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description),” which entry shall be signed by the Mayor and attested by the Clerk.

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TITLE VII – TRANSPORTATION STREETS AND ALLEYS

CHAPTER 179

VACATION AND DISPOSAL OF STREETS

179.01 Power to Vacate

179.02 Planning and Zoning Commission

179.03 Notice of Vacation Hearing

179.04 Findings Required

179.05 Disposal of Vacated Streets or Alleys

179.06 Disposal by Gift Limited

179.01 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])

179.02 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)

179.03 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.

179.04 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.

179.05 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)

179.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

[illegible]

**TITLE VII – TRANSPORTATION
STREETS AND ALLEYS**

CHAPTER 180

STREET GRADES

180.01 Established Grades

180.02 Record Maintained

180.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

180.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR’S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
37	1939		

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TITLE VII – TRANSPORTATION SIDEWALKS

CHAPTER 185

SIDEWALK REGULATIONS

185.01 Purpose	185.11 Interference with Sidewalk Improvements
185.02 Definitions	185.12 Awnings
185.03 Removal of Snow, Ice and Accumulations	185.13 Encroaching Steps
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185.01 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.

185.02 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. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
 - A. Vertical separations equal to three-fourths ($\frac{3}{4}$) inch or more.
 - B. Horizontal separations equal to one (1) inch or more.
 - C. Holes or depressions equal to three-fourths ($\frac{3}{4}$) inch or more and at least four (4) inches in diameter.
 - D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half ($\frac{1}{2}$) inch or more.
 - E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths ($\frac{3}{4}$) inch or more.
 - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
 - G. A sidewalk with any part thereof missing to the full depth.
 - H. A change from the design or construction grade equal to or greater than three-fourths ($\frac{3}{4}$) inch per foot.
3. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
5. “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.
6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “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.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

185.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.

1. Duty of Abutting Owner To Clean Sidewalk. The occupant of every building or any part thereof in the City, fronting upon or lying along any sidewalk, or the owner, agent or person in charge of any unoccupied building, lot or parcel of ground fronting or lying as aforesaid, shall clear the entire sidewalk in front of or lying along such building or lot of all snow and ice, as the case may be, within twenty-four (24) hours after the snow has fallen or ice formed, and shall cause the same to be kept clear of such snow and ice. When it is not practicable to take such snow and ice from such walk by reason of its being frozen to the sidewalk, then such owner or holder shall sprinkle or spread some suitable material upon same to prevent the same from being slippery and, then subsequently remove the accumulation.
2. Failure to Remove; Assessment of Costs. If the occupant, owner, agent or person in charge of any such building or lots neglects or refuses to comply with this chapter, the City may at once proceed to clear said sidewalks of snow and ice by City employees, agents or officers of the City, by contract or such other agencies as it may select, under the supervision of the Maintenance Supervisor or other officer, and may assess the cost and expense thereof against each lot, lots or fraction thereof, not to exceed one dollar (\$1.00) per front foot, fronting or lying along such sidewalk and an additional administrative fee of twenty-five dollars (\$25.00) for each time a billing is sent to the responsible party. Adjacent responsible parties sharing common sidewalks shall be billed on an appropriate pro rata basis. Any individual who otherwise qualifies for reduction in trash fees, shall be entitled to a sixty-six percent (66%) reduction in the snow removal fee. The costs shall be reported and shall become due and delinquent, bear the same rate of interest and be collected at the same time and in the same manner as provided for other special taxes in the City if not paid within thirty (30) days of billing.

185.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and 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])

185.05 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])

185.06 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)

185.07 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.

185.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, with crack control joints four (4) feet apart.
 - B. Business District sidewalks shall extend from the property line to curb. Each section shall be four (4) inches thick with crack control joints no more than six (6) feet apart.
 - C. Driveway approaches 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) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

185.09 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.

185.10 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.

185.11 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.

185.12 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.

185.13 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.

185.14 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.

185.15 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.

185.16 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)

185.17 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])

185.18 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.

185.19 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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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARTER LAKE, IOWA, 2013, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of Carter Lake, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Carter Lake, Iowa, 2013, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARTER LAKE, IOWA, 2013, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of Carter Lake, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Carter Lake, Iowa, 2013, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARTER LAKE, IOWA, 2013, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Carter Lake, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Carter Lake, Iowa, 2013, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars (\$10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

**AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO
(2) RAILROAD ADDITION TO CARTER LAKE, IOWA**

Be It Enacted by the City Council of the City of Carter Lake, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to Carter Lake, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Carter Lake, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Carter Lake, Iowa, will meet on the ____ day of _____, 20____, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Carter Lake, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Carter Lake, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Carter Lake, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of said notice upon the said (name of owner or agent); and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council;

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate;

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ____ days after the service of this Order upon said owner or agent; and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above; and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Carter Lake, Iowa

By: _____
(designate officer initiating notice)

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

Description of Property

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Carter Lake, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on _____,

(Name of Property Owner)

through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within _____ (_____) days from service of notice upon said owner or agent; and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council;

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon;

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent; and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above; and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,
_____,
(Name of Owner or Agent)
fails to make such connection within the time prescribed above, then and in that event the
City will make such connection and the cost thereof will be assessed against the property
and/or owner
_____, as provided by law.
(Owner's Name)
_____, as provided by law.
(Address)

Moved by _____ to adopt.
Seconded by _____.
AYES: _____,
_____, _____,
_____, _____,
_____.
NAYS: _____,
_____, _____,
_____, _____,
_____.

Resolution approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk