

CODE OF ORDINANCES

OF THE

CITY OF

NASHUA, IOWA

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CODE OF ORDINANCES OF THE CITY OF NASHUA, IOWA

Adopted September 16, 2019, by Ordinance No. 328

SUPPLEMENT RECORD

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CODE OF ORDINANCES CITY OF NASHUA, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title	1.08 Amendments
1.02 Definitions	1.09 Catchlines and Notes
1.03 City Powers	1.10 Altering Code
1.04 Indemnity	1.11 Severability
1.05 Personal Injuries	1.12 Warrants
1.06 Rules of Construction	1.13 General Standards for Action
1.07 Extension of Authority	1.14 Standard Penalty

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

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Nashua, Iowa.
3. “Clerk” means the city clerk of Nashua, 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 Nashua, Iowa.
6. “Council” means the city council of Nashua, Iowa.
7. “County” means Chickasaw County and Floyd 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 “Ordinances” means the ordinances of the City of Nashua, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 any injury to or death of any person or persons whomsoever, and any loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly, or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees, or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents, and employees, and agrees to save them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury, or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City, whether expressly recited therein or not.

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$65.00 but not to exceed \$625.00. The court may order imprisonment not to exceed 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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[†] **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3.

CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Nashua, 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. 92 adopting a charter for the City was passed and approved by the Council on June 4, 1973, and was published on June 4, 1973, in the *Nashua Reporter*.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction

3.04 Civil Citations

3.02 Environmental Violation

3.05 Alternative Relief

3.03 Penalties

3.06 Alternative Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First offense – not to exceed \$750.00
 - B. Each repeat offense – not to exceed \$1,000.00

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.

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

- B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than \$1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
 - (2) The City is notified of the violation within 24 hours from the time that the violation begins.
 - (3) The violation does not continue in existence for more than eight hours.

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

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

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths

5.02 Bonds

5.03 Powers and Duties

5.04 Books and Records

5.05 Transfer to Successor

5.06 Meetings

5.07 Conflict of Interest

5.08 Resignations

5.09 Removal of Appointed Officers and Employees

5.10 Vacancies

5.11 Gifts

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected but not later than noon of the first day that is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.
(Code of Iowa, Sec. 63.1)
2. Prescribed Oath. The prescribed oath is: “I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Nashua 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 POWERS AND DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.

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

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

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

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

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

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date, and place of each meeting and its tentative agenda shall be given.
(Code of Iowa, Sec. 21.4)
2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.
(Code of Iowa, Sec. 21.3)
3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.
(Code of Iowa, Sec. 21.3)
4. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting and in accordance with Chapter 21 of the *Code of Iowa*.
(Code of Iowa, Sec. 21.5)
5. Cameras and Recorders. The public may use cameras or recording devices at any open session.
(Code of Iowa, Sec. 21.7)
6. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to Be Used

6.02 Nominations by Petition

6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit

6.05 Filing; Presumption; Withdrawals; Objections

6.06 Persons Elected

6.01 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the *Code of Iowa*.
(*Code of Iowa, Sec. 376.3*)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 10 eligible electors, residents of the City.
(*Code of Iowa, Sec. 45.1*)

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

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

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

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

7.02 FINANCE OFFICER. The City 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.
4. Change Fund. The finance officer is authorized to draw a warrant/check on the Utility Fund for establishing a change fund for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the finance officer, who shall maintain the integrity of the fund.

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, by resolution of the Council. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the Utility or Enterprise Fund. A surplus is defined as the cash balance in the operating account or the unrestricted net position calculated in accordance with generally accepted accounting principles, after adding back the net pension and other postemployment benefits, liabilities, and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:
 - A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and
 - B. The amount necessary to make all required transfers to restricted accounts for the succeeding three months.
(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 each year at such time as directed by the Council.
4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

- A. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.
- B. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:
 - (1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
 - (2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
 - (3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
 - (4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

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

- C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.
 - D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.
 - E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.
- 5. Council Review. The Council shall review the proposed budget and may make any adjustments it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption.
 - 6. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.
(*Code of Iowa, Sec. 384.16[3]*)
 - 7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.
(*Code of Iowa, Sec. 384.16[2]*)
 - 8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two

copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Checks shall be prenumbered and signed by the Clerk or Deputy Clerk and the Mayor or Mayor Pro Tem, following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims

at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include (but is not limited to) payment of utility bills, contractual obligations, payroll, and bond principal and interest.

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

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
181	November 2, 1998	Nashua Urban Renewal Area
186	March 1, 1999	1999 Addition to the Nashua Urban Renewal
221	May 3, 2004	Cedar Hill Urban Renewal Area
244	July 21, 2008	2008 Addition to Cedar Hill Urban Renewal Area

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CHAPTER 9

URBAN REVITALIZATION

EDITOR'S NOTE

Ordinance No. 151, adopted June 17, 1991, designated the Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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CHAPTER 15

MAYOR

15.01 Term of Office

15.04 Compensation

15.02 Powers and Duties

15.05 Voting

15.03 Appointments

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

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(*Code of Iowa, Sec. 372.14[1]*)
2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
(*Code of Iowa, Sec. 372.14[2]*)
3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
(*Code of Iowa, Sec. 372.14[1]*)
4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
(*Code of Iowa, Sec. 380.5 & 380.6[2]*)
5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for Council action.
6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.
7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with this Code of Ordinances and the laws of the State.

9. Licenses and Permits. Sign all licenses and permits that have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS. The Mayor shall appoint the Mayor Pro Tem and the Mayor also appoints, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. Library Board of Trustees
3. Fire Chief

15.04 COMPENSATION. The salary of the Mayor is \$300.00 per month.

(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)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council

16.03 Voting Rights

16.02 Powers and Duties

16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

17.01 Number and Term of Council

17.04 Council Meetings

17.02 Powers and Duties

17.05 Appointments

17.03 Exercise of Power

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.
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 that 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 \$100,000.00 on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The 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 request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. City Attorney
3. Deputy City Clerk
4. Park Board
5. City Treasurer
6. Sewer Superintendent
7. Water Superintendent
8. Street Superintendent
9. Lake and Dam Committee

17.06 COMPENSATION. The salary of each Council Member is twenty dollars (\$20) for each meeting attended by the Council Member. Effective January 1, 2020, the salary of each Council Member shall be thirty dollars (\$30) for each meeting attended by the Council Member.

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation

18.02 Powers and Duties: General

18.03 Publication of Minutes

18.04 Recording Measures

18.05 Other Publications

18.06 Authentication

18.07 Certification

18.08 Records

18.09 Attendance at Meetings

18.10 Licenses and Permits

18.11 Notification of Appointments

18.12 Elections

18.13 City Seal

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.
2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

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

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

(Code of Iowa, Sec. 380.11)

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

1. **Ordinances and Codes.** Maintain copies of all effective City ordinances and codes for public use.
(Code of Iowa, Sec. 380.7[5])
2. **Custody.** Have custody and be responsible for the safekeeping of all writings or documents in which the City is a party in interest unless otherwise specifically directed by law or ordinance.
(Code of Iowa, Sec. 372.13[4])
3. **Maintenance.** Maintain all City records and documents, or accurate reproductions, for at least five years except that ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption or replacement of public bonds or obligations shall be kept for at least 11 years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.
(Code of Iowa, Sec. 372.13[3 & 5])
4. **Provide Copy.** Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments that by this Code of Ordinances are required to be attested by the affixing of the seal.
(Code of Iowa, Sec. 372.13[4 & 5] and 380.7[5])
5. **Filing of Communications.** Keep and file all communications and petitions directed to the Council or to the City generally. The Clerk shall endorse thereon the action of the Council taken upon matters considered in such communications and petitions.
(Code of Iowa, Sec. 372.13[4])

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

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment

19.03 Duties of Treasurer

19.02 Compensation

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer to serve for a term of two years.

19.02 COMPENSATION. The Treasurer is paid such compensation as specified by resolution of the Council.

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:

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

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

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation

20.02 Attorney for City

20.03 Power of Attorney

20.04 Ordinance Preparation

20.05 Review and Comment

20.06 Provide Legal Opinion

20.07 Attendance at Council Meetings

20.08 Prepare Documents

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of 18 years.

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

1. Term of Office. All appointments to the Board shall be for 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 resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in 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.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Librarian, and authorize the Librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Librarian, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the Librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City 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.

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

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation, private or semiprivate organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent 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 40 days before the election. The proposition may be submitted at any election provided by law which is held in the territory of the party seeking to terminate the contract.

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

21.11 THEFT. No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.

(Code of Iowa, Sec. 714.1)

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

1. Failure to Return. Failure to return Library materials for two 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)

CHAPTER 22

PARK BOARD

22.01 Board Established	22.08 Limited Delegation
22.02 Purposes	22.09 Penalties
22.03 Powers	22.10 Vacancies
22.04 Duties	22.11 Officers
22.05 Membership	22.12 Program and Budget
22.06 Qualifications	22.13 Intergovernmental Agreements
22.07 Compensation	

22.01 BOARD ESTABLISHED. The Council deems it in the best public interest of the citizens of the City that there be and is hereby established a Park Board as an administrative entity pursuant to Chapter 392 of the *Code of Iowa*, duly authorized by law with such powers and duties as may be prescribed and defined by the Council.

22.02 PURPOSES. The purposes of such agency are:

1. To control all parks and recreational facilities owned by the City, to administer the proper functioning of said facilities and to adopt rules and regulations for the operation of the agency and its resources.
2. To manage the use of said parks and facilities and post adequate notice of rules and regulations in conspicuous places within said facilities.
3. To develop restoration of said resources including the beauty of the City waterfront and the protection of the aesthetic sense of the community.
4. To preserve and establish the resources of said facilities compatible to the best interests of the City and its inhabitants.
5. To conduct feasibility studies and investigate in accordance with necessary renovation and innovate modern convenient and accessible features.
6. To provide adequate notice and advertising to the extent reasonably necessary to fully inform the public as to the features, identification and location of the facilities.
7. To plan and oversee recreation programs and encourage other programs for the leisure time of the City's residents of all ages and enhancement of tourism.

22.03 POWERS. The Board shall have exclusive control in the administration and operation of all property and facilities devoted to parks and recreation purposes, subject to approval of the Council and the limitations of expenditures for supplies, contracts, and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall operate facilities made available to it for recreational purposes; but it shall have no authority to construct buildings or other permanent structures upon any land without the consent of the Council. The Council retains the right to sell any real property, as it deems necessary, and retains the right to the property for City purposes. The Board shall have the right to adopt bylaws to govern the internal functioning of the Board, including (but not limited to) the creation of officers in addition to those otherwise specified by this chapter,

their times, dates, and places of Board meetings. The Board shall have the right to purchase materials, supplies, equipment, and services, subject to budgeting limitations and requirements imposed by law. All purchases shall be made according to State law and City policy. The Board shall perform any other acts which shall be reasonable and necessary and proper to carry out a park and recreational program under this chapter.

22.04 DUTIES. In addition to the administrative duties as defined in the purposes set forth in this chapter, the Board shall, through its Chairperson or other designated representative, report on its activities to the Council at least once per month or as the Council may request. These reports shall be in such forms as the Council may direct and shall include, but not be limited to, its revenues and expenditures. The date therefrom shall be reported by the Clerk and listed in the manner as for other departmental expenditures with a copy to be provided each Board member. The Board shall advise the Council on needed facilities to provide open spaces such as parks, playgrounds, and community facilities for other forms of recreation. The Board shall present to the Council April 1 and November 1 of each year the program comprehensive plan as defined in the program and budget set forth in this chapter. The Board shall keep a correct record of its proceedings and display for public review at a minimum of two locations to include City Hall and one online public access forum.

22.05 MEMBERSHIP. The Board may consist of seven members of legal age appointed by the Council to be known as Park Commissioners. Members shall be appointed for four-year staggered terms of office. One or two members shall be Council persons, who shall serve until their terms on the City Council end or they are replaced by other Council members. All terms shall begin on January 1 and shall expire on December 31. A majority shall constitute a quorum for the transaction of business.

22.06 QUALIFICATIONS. Members may be residents or nonresidents of the City. Members will be reviewed and approved by the Council.

22.07 COMPENSATION. Members shall serve without compensation, but may upon request receive reimbursement for actual expenses incurred in the discharge of their duties.

22.08 LIMITED DELEGATION. The Council delegates to said Board the power to establish and collect charges and to disburse moneys received for the use of a City facility, including a City enterprise, as defined in Section 384.24 of the *Code of Iowa*, subject to the restriction provided therein. Any outsourced services or privileges may be sold after public advertising and competitive bidding, in accordance with applicable laws and regulations. Binding contracts and agreements must have the approval of the Council.

22.09 PENALTIES. A violation of rules and regulations adopted governing the use by the public of said facilities shall constitute a misdemeanor.

22.10 VACANCIES. In the event any member fails to attend three consecutive regular meetings, without good cause, or voluntarily resigns from the Board, a vacancy in said office shall exist. The Board shall fill a vacancy subject to the approval of the Council and the appointee, if confirmed, shall serve the unexpired term. Any member may be removed by the Mayor with the consent of the Council for cause, after a hearing.

22.11 OFFICERS. The Board shall, at the beginning of each year, elect from its members a Chairperson, a Secretary and such additional officers as the Board shall determine.

22.12 PROGRAM AND BUDGET. The Board shall each year prior to November 1 prepare a comprehensive program for public parks and recreation activities for the following

year. The program shall be described in terms of activities, as well as finances. The budget of finances shall be substantially balanced and shall show:

- Estimated revenues and estimated expenditures;
- Personnel requirements; and
- Proposed improvements to parklands and buildings.

The budget shall be submitted not later than November 1 to the City Council. Final decisions as to these contributions shall be reported to the Board, which shall adjust its budget if necessary. The Board may not borrow money; and it shall not approve any claims or incur any obligations for expenditure unless there is unencumbered cash in the Park and Recreation funds with which to pay the same. For the purposes of financing the public parks and recreation program authorized by this Code of Ordinances, there shall be established in the City accounts a fund to be called Parks and Recreation. Into this fund shall be placed the various revenues of the Board and from it shall be paid claims for the various expenditures of the Board. All receipts of the Board shall be deposited with the City Clerk to the credit of the fund and no disbursement shall be made from this fund unless it has first been submitted to and approved for payment by the Board and the Council. The accounting of the fund and the custody of the cash shall be the responsibility of the City Clerk, who shall make a report to the Board each month.

22.13 INTERGOVERNMENTAL AGREEMENTS. As provided by Sections 461A.27 and 461A.34 of the *Code of Iowa*, the City may enter into an agreement with a County or another city whereby the City shall undertake the care and maintenance of lands under the jurisdiction of the Department of Natural Resources and this may include parks outside the limits of the City. Any facilities thus acquired by the City shall be managed by the Park Board.

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CHAPTER 23

LAKE AND DAM COMMITTEE

23.01 Committee Established

23.02 Purposes

23.03 Duties

23.04 Membership

23.05 Compensation

23.06 Vacancies

23.07 Officers

23.08 Budget

23.01 COMMITTEE ESTABLISHED. The Council deems it in the best public interest of the citizens of the City that there be and is hereby established a Lake and Dam Committee as an administrative entity pursuant to Chapter 392 of the *Code of Iowa*, duly authorized by law with such powers and duties as may be prescribed and defined by the Council.

23.02 PURPOSES. The purposes of such agency are:

1. To be a resource to the City Council regarding lake and dam issues.
2. To gain knowledge of the operation and maintenance of the dam.
3. To work with City employees to establish maintenance procedures.
4. To research methods to maintain or increase the depth of the lake.
5. To research sources of federal, State and County funds to promote economic development, recreation and other uses of the lake.
6. Establish a plan and encourage private development of lakefront properties.

23.03 DUTIES. In addition to the administrative duties as defined in the purposes set forth in this chapter, the Board shall report quarterly to the Council or as the Council may request.

23.04 MEMBERSHIP. The Committee shall consist of seven members of legal age appointed by the Council. Members shall be appointed for four years.

23.05 COMPENSATION. Members shall serve without compensation, but may upon request receive reimbursement for actual expenses incurred in the discharge of their duties.

23.06 VACANCIES. If any member fails to attend three consecutive regular meetings, without good cause, a vacancy in said office shall exist. The Committee shall fill a vacancy subject to the approval of the Council, and the appointee, if confirmed, shall serve the unexpired term.

23.07 OFFICERS. The Committee shall annually elect from its members a Chairperson and a Secretary.

23.08 BUDGET The Committee shall certify to the Council each year when requested a budget for the ensuing fiscal year.

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established

30.02 Organization

30.03 Peace Officer Qualifications

30.04 Required Training

30.05 Compensation

30.06 Peace Officers Appointed

30.07 Powers and Duties of Police Chief

30.08 Departmental Rules

30.09 Summoning Aid

30.10 Taking Weapons

30.11 Contract Law Enforcement

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.
(Code of Iowa, Sec. 80B.11)

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

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

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

30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Council shall select, upon recommendation of the Mayor or Police Chief, the other members of the department.
(Code of Iowa, Sec. 372.4)

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

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

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.

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

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.
(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items that are capable of causing bodily harm which the arrested person may have within such person's control, to be disposed of according to law.
(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a Police Chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.
(Code of Iowa, Sec. 28E.30)

CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose

35.02 Organization

35.03 Approved by Council

35.04 Training

35.05 Compensation

35.06 Fire Chief Appointed

35.07 Duties of Fire Chief

35.08 Obedience to Fire Chief

35.09 Constitution

35.10 Accidental Injury Insurance

35.11 Liability Insurance

35.12 Calls Outside Fire District

35.13 Mutual Aid

35.14 Authority to Cite Violations

35.15 Fire Service Fees and Charges

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

35.06 FIRE CHIEF APPOINTED. The department shall select a candidate for Fire Chief for appointment by the Mayor.

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

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

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

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

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

11. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing and reporting data pertaining to fires.
12. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause, and location, and an analysis of losses by value, type and location of buildings.
13. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.15 FIRE SERVICE FEES AND CHARGES.

1. Service Charges. All users of fire services shall be charged a fee for such services rendered by the Nashua Fire Department in responding to a vehicular accident or fire. For the purposes of this section the word "users" shall be

defined as all those people who have requested or who are lawfully responsible for requesting such services.

2. Fees for Service.
 - A. A minimum fee of \$150.00 and \$10.00 per man per hour after the first hour shall be charged for accidents not requiring the use of extrication tools. A minimum fee of \$250.00 and \$10.00 per man per hour after the first hour shall be charged for accidents requiring the use of extrication equipment.
 - B. A minimum fee of \$150.00 and \$10.00 per man per hour after the first hour shall be charged for vehicular fires.
 - C. A credit equal to the amount of said fee shall be given to all people who resided within the fire district at the time of the accident.
3. Billing. Invoices shall be issued by the Fire Chief and City Clerk. Fees collected will be deposited in the City's Fire Department Equipment Fund. Such funds shall be used to purchase equipment, training, services and supplies for the City of Nashua Fire Department.

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CHAPTER 36

FIRE DEPARTMENT BOARD

36.01 Board Established

36.02 Purpose

36.03 Duties

36.04 Membership

36.05 Qualification

36.06 Compensation

36.07 Penalties

36.08 Officers

36.01 BOARD ESTABLISHED. The Council deems it in the best public interest of the citizens of the City that there be and is hereby established a Fire Department Board as an administrative entity pursuant to Chapter 392 and 28E of the *Code of Iowa*, duly authorized by law with such powers and duties as may be prescribed and defined by the Council.

36.02 PURPOSE. The purpose of such agency is to manage special funds by recommending to the Council use of these special funds, including (but not limited to) the Watson Estate funds.

36.03 DUTIES. In addition to the administrative duties as defined in the purposes set forth in this chapter, the Board shall report quarterly to the Council or as the Council may request. The date therefrom shall be reported by the Clerk and listed in the manner as for other departmental expenditures with a copy to be provided each Board member.

36.04 MEMBERSHIP. The Board shall consist of five members of legal age and consisting of the Mayor, the Fire Chief, the Assistant Fire Chief, a Rural Fire District Trustee, and one Council member.

36.05 QUALIFICATIONS. The five appointed members shall meet residency requirements within the fire district.

36.06 COMPENSATION. Members shall serve without compensation, but may upon request receive reimbursement for actual expenses incurred in the discharge of their duties.

36.07 PENALTIES. A violation of rules and regulations adopted governing the use by the public of said facilities shall constitute a misdemeanor.

36.08 OFFICERS. The Board shall annually elect from its members a Chairperson and a Secretary.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.04 Unlawful Assembly

40.02 Harassment

40.05 Failure to Disperse

40.03 Disorderly Conduct

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

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that will be insulting or offensive to another, coupled with the apparent ability to execute the act.
(Code of Iowa, Sec. 708.1[1])
2. Threat of Pain or Injury. Any act that is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
(Code of Iowa, Sec. 708.1[2])

An act described in Subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace; (ii) if the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function, regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:
 - A. Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.
(Code of Iowa, Sec. 708.7)
 - B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.
(Code of Iowa, Sec. 708.7)

- C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.
(*Code of Iowa, Sec. 708.7*)
 - D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.
(*Code of Iowa, Sec. 708.7*)
2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

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

- 1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that is reasonably related to that sport.
(*Code of Iowa, Sec. 723.4[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 that 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 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
 - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

40.04 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)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.
2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

41.13 SHOOTING OF BOWS AND ARROWS. It is unlawful for any person to fire or discharge within the City limits any arrow or projectile by using a bow or similar device, except on such places and during such times as the Council may approve as stated herein:

1. Permit Required. Any individual, homeowner or group may make application for a permit for an archery range or firing lane within the City limits, subject to proof of the following requirements within said application for permit:
 - A. Adequate Insurance. The applicant must provide proof of insurance as the Council deems necessary.
 - B. Safety. The applicant must provide an adequate design for safety as deemed appropriate by the Council.
 - C. Concurrence of Adjoining Property Owners. Proof of the concurrence of adjoining property owners is required.
 - D. Fee. The payment of an application fee of \$5.00 is required, unless the group or organization represents a public or educational concern, in which case the application fee may be waived by the Council.
2. Time Period. The permit granted by the Council will be for a one-year period, and subject to review annually by the Council.

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

41.15 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
 - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
 - (1) First-class consumer fireworks:
 - a. Aerial shell kits and reloadable tubes;
 - b. Chasers;
 - c. Helicopters and aerial spinners;
 - d. Firecrackers;
 - e. Mine and shell devices;
 - f. Missile-type rockets;
 - g. Roman candles;
 - h. Sky rockets and bottle rockets;

- i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
 - (2) Second-class consumer fireworks:
 - a. Cone fountains;
 - b. Cylindrical fountains;
 - c. Flitter sparklers;
 - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
 - e. Ground spinners;
 - f. Illuminating torches;
 - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
 - h. Wheels;
 - i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.
 - B. “Display fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.
 - C. “Novelties” includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.
- 2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. 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:\$250,000.00 per person
 - B. Property Damage:.....\$50,000.00
 - C. Total Exposure:\$1,000,000.00

3. Consumer Fireworks.
 - A. It is unlawful for any person to use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.
 - B. It is unlawful for any person to use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:
 - (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.
 - (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.
 - (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.
 - C. It is unlawful for any person to use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.
4. Novelties. This section does not apply to novelties.

41.16 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section "drug paraphernalia" means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:
 - A. Manufacture a controlled substance.
 - B. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
 - C. Test the strength, effectiveness, or purity of a controlled substance.
 - D. Enhance the effect of a controlled substance.

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

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

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.05 Fraud

42.02 Criminal Mischief

42.06 Theft

42.03 Defacing Proclamations or Notices

42.07 Other Public Property Offenses

42.04 Unauthorized Entry

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

- A. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.
- B. “Public utility” is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.
- C. “Public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.
- D. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.
- E. “Railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.
- F. “Trespass” means one or more of the following acts:
(Code of Iowa, Sec. 716.7[2a])

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

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

public employee whose duty it is to supervise the use or maintenance of the property.

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

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or

when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.10 – Injury to Books or Property
 - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.14 – Fires or Fuel on Sidewalks
 - C. Section 136.15 – Defacing
 - D. Section 136.16 – Debris on Sidewalks
 - E. Section 136.17 – Merchandise Display
 - F. Section 136.18 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.
 - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
 - D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.
3. A person shall not simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

(Code of Iowa, Sec. 123.47)

CHAPTER 46

MINORS

46.01 Cigarettes and Tobacco

46.03 Curfew

46.02 Contributing to Delinquency

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

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

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

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

46.03 CURFEW. The Council has determined that a curfew for minors under the age of 16 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, and to protect minors from improper influences and criminal activity that may exist 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 unmarried person under the age of eighteen (18) years.
 - D. "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.

E. "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 under the age of 16 to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 6:00 a.m. of the following day on weekdays (Sunday, Monday, Tuesday, Wednesday and Thursday). The curfew on Friday and Saturday shall be from 11:00 p.m. to 6:00 a.m. on Saturday and Sunday.

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

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within 30 minutes after the end of work;

(2) Minor's place of religious activity or, if traveling, within 30 minutes after the end of the religious activity;

(3) Governmental or political activity or, if traveling, within 30 minutes after the end of the activity;

(4) School activity or, if traveling, within 30 minutes after the end of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within 30 minutes after the end 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.

F. The minor's business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.

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

5. Enforcement.

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

B. Officer's Discretion. When a curfew violation has been identified, an officer may use reasonable discretion in determining an appropriate course of action. These options include directing the juvenile to proceed directly home, transporting the juvenile home, arresting the juvenile and detaining him/her until his/her parents or guardian can be reached for pickup, issuance of a citation to the juvenile, and issuance of a citation to the responsible adult(s) having custody or control of the minor child. Each option is not exclusive but may be utilized cumulatively with the other options at the discretion of the officer.

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.

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose

47.02 Parking

47.03 Use of Drives Required

47.04 Fires

47.05 Littering

47.06 Parks Closed

47.07 Camping

47.08 Holding Tanks

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

(Code of Iowa, Sec. 364.12)

47.02 PARKING. All vehicles shall be parked in designated parking areas.

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

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

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

47.06 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 10:30 p.m. and one hour before daylight.

47.07 CAMPING.

1. No person shall camp or sleep in any portion of a park, whether in trailers, campers, tents or without shelter, except in portions prescribed or designated by the Council.
2. The Council may establish, by resolution, such fees for camping and other special privileges as it deems appropriate and reasonable.
3. The City may refuse camping privileges or rescind any and all camping privileges for cause.

47.08 HOLDING TANKS. It is unlawful for any person to empty any camper holding tank in any park except at designated areas in Cedar View Park.

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CHAPTER 48

SOCIAL HOSTING AND UNDERAGE CONSUMPTION

48.01 Purpose

48.04 Exceptions/Protections

48.02 Definitions

48.05 Enforcement

48.03 Prohibited Acts & Affirmative Defense

48.06 Violations/Penalties

48.01 PURPOSE. This chapter is enacted to protect and preserve the rights, privileges, and property of the City and its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City. The purpose of this chapter is to prohibit the consumption of alcoholic beverages by person under the age of 21 and to prohibit gatherings where persons knowingly allow or permit the underage drinking of alcoholic beverages to occur on property they own or control. This chapter establishes penalties for persons who knowingly permit or allow underage drinking and will encourage those persons to ensure that those activities are not occurring on premises under their control.

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

1. “Alcoholic beverage” means any beverage containing more than one half of one percent of alcohol by volume including alcoholic liquor, wine, or beer as specified in Iowa Code 123.3.
2. “Emergency responders” means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
3. “Enforcement services” means the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering, or party, administrative costs attributable to the incident, the actual costs for medical treatment for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.
4. “Event, gathering, or party” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
5. “Juvenile” means a person under the age of 18.
6. “Legal Age” means 21 years of age or more.
7. “Parent” means any person having legal custody of a juvenile:
 - A. As natural parent, adoptive parent or stepparent,
 - B. As a legal guardian, or
 - C. As a person to whom legal custody has been given by order of the court.
8. “Premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, hall or meeting room, park, or any other place of assembly, whether public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or

without permission or compensation. "Premises" does not include property that is licensed to sell or serve alcoholic beverages.

9. "Public place" means any place, building, or conveyance to which the public has or is permitted access.

10. "Social host" means any person, partnership, corporation, or association of one or more individuals who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering, or party on any premises under the control of the social host. The term "social host" includes but is not limited to:

- A. The person(s) who owns, rents, leases or otherwise has control of any premises where the event, gathering or party takes place,
- B. The person in charge of the premises, or
- C. The person(s) who organized the event, gathering, or party.

11. "Underage person" means any individual under the age of 21.

48.03 PROHIBITED ACTS & AFFIRMATIVE DEFENSE. It is unlawful for any social host to host an event, gathering, or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage or illicit drug, or possessed an alcoholic beverage or illicit drug with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A social host who hosts such an event, gathering or party does not have to be present at the time the prohibited act takes place. If a social host in violation of this chapter is a juvenile and the parent(s) are present on the premises at the time of the violation, the parent(s) of such juvenile shall also be in violation of this chapter. A social host has an affirmative defense if the social host took reasonable steps to prevent consumption of alcohol by underage persons by:

- 1. Controlling underage persons' access to alcoholic beverages;
- 2. Verifying the age of persons being served, in the possession of, or consuming alcoholic beverages at the event, gathering, or party by inspecting drivers' licenses or other government issued identification cards;
- 3. Supervising the activities of underage persons at the party; and/or
- 4. Notifying law enforcement when the host knows or reasonably should know that an underage person has consumed or possesses an alcoholic beverage and allowing law enforcement to enter the premises for the purpose of stopping illegal activities .

48.04 EXCEPTIONS/PROTECTIONS. This chapter does NOT apply to conduct solely between an underage person and his or her parents in the parents' household, to legally protected religious observances, and to situations where underage persons are lawfully in possession of alcoholic beverages or illicit drugs during the course and scope of employment. The exceptions outlined shall not apply when the underage person leaves home, religious gathering , or place of employment and subsequently violates Iowa Code section 123.46(2), CONSUMPTION IN PUBLIC PLACES. This chapter also protects adults whose children (18-21) host a party containing alcohol and or illicit drugs, when they are unaware it is taking place (on vacation, etc.).

48.05 ENFORCEMENT. The provisions of this chapter shall be enforced by officers of the Nashua Police Department primarily or by any other law enforcement agency, (municipal,

county or state) which may be assisting the Nashua Police Department in the scope of their duties.

48.06 VIOLATIONS/PENALTIES. Violations of this chapter are declared to be municipal infractions. A \$500.00 civil penalty shall be imposed for a social host's first offense. A \$750.00 civil penalty shall be imposed for a social host's second offense. A \$1,000.00 civil penalty shall be imposed for a social host's third or subsequent offense. In determining if a violation charged is a second or subsequent offense, conviction for violation of this section, Iowa Code section 123.47, or an ordinance of any city or county in the State of Iowa that substantially corresponds to this section or Iowa Code 123.47 shall be counted as previous offenses. In addition to penalties under this chapter, the City may seek reimbursement for enforcement services provided by emergency responders related to the event, gathering or party. Violations of this chapter may also be considered by the City for purposes of approving licenses applied for by the social host or for any other requirement that are subject to approval by the City.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance

50.02 Nuisances Enumerated

50.03 Other Conditions

50.04 Nuisances Prohibited

50.05 Nuisance Abatement

50.06 Abatement of Nuisance by Written Notice

50.07 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.
(See also Section 62.06)
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction.
(See also Chapter 51)
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds and grasses over six (6) inches in height or other vegetation having reached a height exceeding eight (8) inches,

except for any cultivated agricultural commodities which are planted and harvested within the City, provided the same are regularly maintained and otherwise free from the type of offensive vegetation that would constitute a health, safety or fire hazard.

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**
11. Airport Air Space. 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.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**
5. Restricted Residence District **(See Chapter 155)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and

† **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.

such costs shall then be collected with, and in the same manner as, general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.04 Exceptions

51.02 Junk and Junk Vehicles Prohibited

51.05 Notice to Abate

51.03 Junk and Junk Vehicles a Nuisance

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.
 - F. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the *Code of Iowa*. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

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

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition of Animals
55.06 At Large Prohibited	55.15 Pet Awards Prohibited
55.07 Damage or Interference	55.16 Sanitation
55.08 Annoyance or Disturbance	55.17 Keeping of Numerous Animals
55.09 Keeping of Dangerous Animals Prohibited	55.18 Administrative Sanctions and Remedies

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "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.
5. "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 or its designee; and
 - C. The following animals, which are deemed to be dangerous animals per se:
 - (1) Wolves, coyotes and foxes;
 - (2) Badgers, wolverines and weasels;
 - (3) Bears;

- (4) Snakes which are naturally venomous or poisonous and also constricting snakes;
 - (5) All cats, except domestic cats (*Carnivora* of the family *Felidae* including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.)
 - (6) Alligators and crocodiles;
 - D. Any animal determined to be dangerous by the Police Department or the City Council because of its biting or maiming.
6. “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 domestic animals.
 - B. Any dog determined to be dangerous because of its biting or maiming by the Nashua Police Department or the City Council.
7. “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.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
9. “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*)
10. “Owner” means any person owning, keeping, sheltering or harboring an animal.
11. “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.

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means that causes unjustified pain, distress or suffering.
(*Code of Iowa, Sec. 717B.3*)

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

(Code of Iowa, Sec. 717.2)

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

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

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council. This provision shall not apply to owners of agricultural land located within the City limits; however, it shall not exempt said owners from provisions relating to dangerous animals, dogs and cats.

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

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

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

55.09 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep or shelter any dangerous animal as a pet, or act as a custodian, temporary or otherwise, for such animal, 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, humane society or museum 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 or show where such circus, carnival, exhibit or show is of a travelling nature, is displayed before large assemblages of people, and maintains any and all required federal or State licenses.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the State Department of Natural Resources.

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies.

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

(Code of Iowa, Sec. 351.38)

55.12 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 10 days the board may humanely destroy the animal. 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.

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.16 SANITATION.

1. No owner or custodian of any animal shall cause or allow such animal to soil, defile, or defecate on any public property or upon any street, sidewalk, public way, play area, or common grounds owned jointly by members of a homeowners or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

- A. Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
 - B. Removal of such bag or container to the property of the animal owner or custodian and disposition thereafter in a manner as otherwise may be permitted by law.
- 2. No person owning, harboring or keeping an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's property, or to abutting property of others.
 - 3. No person owning, harboring, keeping or in charge of any animal shall cause unsanitary dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

55.17 KEEPING OF NUMEROUS ANIMALS.

- 1. It is unlawful for any person to keep more than three dogs, keep more than three cats or keep more than three other animals within the City; except that a litter of pups, kittens or other young animals may be kept for a period of time not exceeding five months from birth. This subsection shall not apply to any establishment where animals are kept for breeding, sale, or boarding as provided by law. This provision shall not apply to those citizens whom have kept greater than five animals prior to the enactment of the ordinance codified in this section, but shall only apply prospectively. This provision shall not apply to owners of agricultural land located within the City limits, however, shall not exempt said owners from provisions relating to dangerous animals, dogs and cats.
- 2. In areas where kennels are permitted, no kennel shall be located closer than 10 feet from the property line of the nearest adjacent residential lot.

55.18 ADMINISTRATIVE SANCTIONS AND REMEDIES.

- 1. Council Authority. As part of any order issued pursuant to this chapter, the Council shall have the authority to hear any complaint, after hearing notice, and after hearing to order the following administrative sanctions and remedies:
 - A. Obedience training for the animal(s) in question.
 - B. Muzzling of an animal while off the property of the owner.
 - C. Confinement of an animal indoors.
 - D. Confinement of an animal in a secure enclosure.
 - E. Reduction of the number of animals kept at any one location.
 - F. Removal of an animal from the custody of the animal's owner or custodian in cases of neglect or cruelty.
 - G. The sterilization of an animal.
 - H. A ban on maintaining other animals in the City.

- I. Any other measure or sanction designed to eliminate a violation, prevent future violations, or protect health and safety of the public, including destruction of the animal.
2. Impoundment. In addition to any other remedies provided in this chapter, the Council or an animal control officer or a police officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:
 - A. Any animal at large.
 - B. Any animal constituting a public nuisance or considered a danger to the public.
 - C. Any animal that is in violation of any quarantine or confinement order of the City's chief health officer.
 - D. Any unattended animal that is ill, injured or otherwise in need of care.
 - E. Any animal that is reasonably believed to have been abused or neglected.
 - F. Any animal that is reasonably suspected of having rabies.
 - G. Any animal that is charged with being potentially dangerous, or dangerous where an animal control officer, the Board of Health, or the Mayor determines that there is a threat to public health and safety.
 - H. Any animal that a court of competent jurisdiction has ordered impounded or destroyed.
 - I. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.
3. Municipal Infraction. An animal control officer or police officer may also, or in lieu of impoundment, issue to the owner a notice of violation. Such notice shall impose upon the owner a civil penalty of \$50.00 per occurrence.
4. Impoundment Notice and Costs.
 - A. Upon impoundment of an animal, the enforcement officer shall immediately attempt to notify the owner by telephone or certified mail.
 - B. An owner reclaiming an impounded animal shall pay a fee of the actual costs for each day the animal has been impounded.
 - C. Any animal not reclaimed by its owner within 24 hours will be taken to the local humane society or animal shelter.
 - D. All impoundment costs and other fees, including fees for euthanasia, shall be paid by the owner of the dog, cat or animal. Impounding costs are set by the impounding facility and shall be the costs due and payable by the owner of the dog, cat or animal.
5. Appeals. Any person aggrieved by any decision of the Council, except in the case where a municipal infraction citation has been issued, may appeal the decision to the District Court as provided by law.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title	60.05 Reports of Traffic Accidents
60.02 Definitions	60.06 Peace Officer's Authority
60.03 Administration and Enforcement	60.07 Obedience to Peace Officers
60.04 Power to Direct Traffic	60.08 Parades Regulated

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

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. “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 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
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 or, in the absence of a peace officer, any officer of the Fire Department when at the scene of a fire, is authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. Definition. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor or Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.
4. Control by Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation

61.04 Standards

61.02 Crosswalks

61.05 Compliance

61.03 Traffic Lanes

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 this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations

62.02 Play Streets Designated

62.03 Vehicles on Sidewalks

62.04 Clinging to Vehicle

62.05 Quiet Zones

62.06 Obstructing View at Intersections

62.07 Semi-Tractors and Trucks – Prohibited Noises

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

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

22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.

- 54. Section 321.298 – Meeting and turning to right.
- 55. Section 321.299 – Overtaking a vehicle.
- 56. Section 321.302 – Overtaking and passing.
- 57. Section 321.303 – Limitations on overtaking on the left.
- 58. Section 321.304 – Prohibited passing.
- 59. Section 321.306 – Roadways laned for traffic.
- 60. Section 321.307 – Following too closely.
- 61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 62. Section 321.309 – Towing.
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers approaching blind persons.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 86. Section 321.343 – Certain vehicles must stop.
- 87. Section 321.344 – Heavy equipment at crossing.
- 88. Section 321.344B – Immediate safety threat; penalty.

- 89. Section 321.354 – Stopping on traveled way.
- 90. Section 321.359 – Moving other vehicle.
- 91. Section 321.362 – Unattended motor vehicle.
- 92. Section 321.363 – Obstruction to driver's view.
- 93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
- 94. Section 321.365 – Coasting prohibited.
- 95. Section 321.367 – Following fire apparatus.
- 96. Section 321.368 – Crossing fire hose.
- 97. Section 321.369 – Putting debris on highway.
- 98. Section 321.370 – Removing injurious material.
- 99. Section 321.371 – Clearing up wrecks.
- 100. Section 321.372 – School buses.
- 101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 102. Section 321.381A – Operation of low-speed vehicles.
- 103. Section 321.382 – Upgrade pulls; minimum speed.
- 104. Section 321.383 – Exceptions; slow vehicles identified.
- 105. Section 321.384 – When lighted lamps required.
- 106. Section 321.385 – Head lamps on motor vehicles.
- 107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 108. Section 321.387 – Rear lamps.
- 109. Section 321.388 – Illuminating plates.
- 110. Section 321.389 – Reflector requirement.
- 111. Section 321.390 – Reflector requirements.
- 112. Section 321.392 – Clearance and identification lights.
- 113. Section 321.393 – Color and mounting.
- 114. Section 321.394 – Lamp or flag on projecting load.
- 115. Section 321.395 – Lamps on parked vehicles.
- 116. Section 321.398 – Lamps on other vehicles and equipment.
- 117. Section 321.402 – Spot lamps.
- 118. Section 321.403 – Auxiliary driving lamps.
- 119. Section 321.404 – Signal lamps and signal devices.
- 120. Section 321.404A – Light-restricting devices prohibited.
- 121. Section 321.405 – Self-illumination.
- 122. Section 321.408 – Back-up lamps.
- 123. Section 321.409 – Mandatory lighting equipment.

- 124. Section 321.415 – Required usage of lighting devices.
- 125. Section 321.417 – Single-beam road-lighting equipment.
- 126. Section 321.418 – Alternate road-lighting equipment.
- 127. Section 321.419 – Number of driving lamps required or permitted.
- 128. Section 321.420 – Number of lamps lighted.
- 129. Section 321.421 – Special restrictions on lamps.
- 130. Section 321.422 – Red light in front.
- 131. Section 321.423 – Flashing lights.
- 132. Section 321.430 – Brake, hitch, and control requirements.
- 133. Section 321.431 – Performance ability.
- 134. Section 321.432 – Horns and warning devices.
- 135. Section 321.433 – Sirens, whistles, and bells prohibited.
- 136. Section 321.434 – Bicycle sirens or whistles.
- 137. Section 321.436 – Mufflers, prevention of noise.
- 138. Section 321.437 – Mirrors.
- 139. Section 321.438 – Windshields and windows.
- 140. Section 321.439 – Windshield wipers.
- 141. Section 321.440 – Restrictions as to tire equipment.
- 142. Section 321.441 – Metal tires prohibited.
- 143. Section 321.442 – Projections on wheels.
- 144. Section 321.444 – Safety glass.
- 145. Section 321.445 – Safety belts and safety harnesses; use required.
- 146. Section 321.446 – Child restraint devices.
- 147. Section 321.449 – Motor carrier safety regulations.
- 148. Section 321.449A – Rail crew transport drivers.
- 149. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
- 150. Section 321.450 – Hazardous materials transportation.
- 151. Section 321.454 – Width of vehicles.
- 152. Section 321.455 – Projecting loads on passenger vehicles.
- 153. Section 321.456 – Height of vehicles; permits.
- 154. Section 321.457 – Maximum length.
- 155. Section 321.458 – Loading beyond front.
- 156. Section 321.460 – Spilling loads on highways.
- 157. Section 321.461 – Trailers and towed vehicles.
- 158. Section 321.462 – Drawbars and safety chains.

- 159. Section 321.463 – Maximum gross weight.
- 160. Section 321.465 – Weighing vehicles and removal of excess.
- 161. Section 321.466 – Increased loading capacity; reregistration.

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

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

62.07 SEMI-TRACTORS AND TRUCKS – PROHIBITED NOISES. Within the City limits it is unlawful for any person to make or cause to be made loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking, commonly referred to as jake braking, on any semi-tractors and trucks.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.04 Special Speed Zones

63.02 State Code Speed Limits

63.05 Minimum Speed

63.03 Parks, Cemeteries, and Parking Lots

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

63.03 PARKS, CEMETERIES, AND PARKING LOTS. A speed in excess of 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 20 MPH Speed Zones. A speed in excess of 20 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Main Street, from Lexington Avenue to Panama Street.
2. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Amherst Boulevard within the City limits.
3. Special 30 MPH Speed Zones. A speed in excess of 30 miles per hour is unlawful on any of the following designated streets or parts thereof.

- A. State Highway 346 from the centerline of old U.S. Highway 218 to Maple Street.
- B. State Highway 346 from the centerline of old U.S. Highway 218 west 330 feet.
- 4. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Greeley Street from Dixie Drive to 290th Street.
- 5. Special 40 MPH Speed Zones. A speed in excess of 40 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. State Highway 346 from Maple Street to the east corporate limits.
- 6. Special 45 MPH Speed Zone. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. State Highway 346 from a point approximately 330 feet west of the centerline of old U.S. Highway 218, west 2,700 feet.
- 7. Special 55 MPH Speed Zone. A speed in excess of 55 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. County Highway B-60 from a point approximately 3,030 feet west of the centerline of old U.S. Highway 218 to the west corporate limits.
- 8. Special 65 MPH Speed Zone. A speed in excess of 65 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. U.S. Highway 27/218, a four-lane road within the City limits.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.03 Left Turn for Parking

64.02 U-Turns

64.04 Prohibited Turn

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 within the Business District, and in the following designated location:

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

1. On Main Street, from Lexington Avenue to Panama Street.

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of Main Street between the Cedar River and Lexington Avenue, for the purpose of parking on Main Street.

64.04 PROHIBITED TURN. No person shall back out of a parking space on Main Street in such manner as to change the direction of the motor vehicle so as to proceed in the opposite direction of travel prior to parking.

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets

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

65.01 THROUGH STREETS. 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. Greenwood Avenue from east City limits to Cedar Bridge.
2. Main Street from Sample Street to Waverly Road.
3. Sample Street from Cedar Bridge to U.S. Highway 218.
4. U.S. Highway 218 from south City limits to north City limits.
5. Lexington Avenue from Main Street to U.S. 218.
6. Greeley Street from Sample Street to the south corporate limits.
7. Madison Street from Main Street to Greeley Street.
8. Nashua and Charles City Road from Sample Street to north City limits.
9. Waverly Road from Main Street to Greeley Street.
10. Panama Street from Main Street to Greeley Street.

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

(Code of Iowa, Sec. 321.345)

1. Park Street. Vehicles traveling north on Park Street shall stop at Mill Street.
2. Mill Street. Vehicles traveling on Mill Street shall stop at Maple Street.
3. Jay Street. Vehicles traveling on Jay Street shall stop at Woodbridge Street.
4. Andrews Street. Vehicles traveling on Andrews Street shall stop at Panama Street.
5. Brasher Street. Vehicles traveling on Brasher Street shall stop at Woodbridge Street.
6. Andrews Street. Vehicles traveling on Andrews Street shall stop at Aspinwall Street.
7. Merrill Street. Vehicles traveling on Merrill Street shall stop at Lexington Avenue, Sample Street and Charles City Road.

8. Main Street. Vehicles traveling north on Main Street shall stop at Sample Street.
9. Brasher Street. Vehicles traveling on Brasher Street shall stop at Cedar Street.
10. Brasher Street. Vehicles traveling on Brasher Street shall stop at Aspinwall Street.
11. Ford Street. Vehicles traveling on Ford Street shall stop at Main Street.
12. Lakeshore Drive. Vehicles traveling on Lakeshore Drive shall stop at Chickasaw Street.
13. Chickasaw Street. Vehicles traveling on Chickasaw Street shall stop at Mill Street.
14. Monroe Street. Vehicles traveling on Monroe Street shall stop at Mill Street.
15. Andrews Street. Vehicles traveling on Andrews Street shall stop at Cedar Street.
16. Andrews Street. Vehicles traveling on Andrews Street shall stop at Woodbridge Street.
17. Andrews Street. Vehicles traveling on Andrews Street shall stop at Madison Street.
18. Jay Street. Vehicles traveling on Jay Street shall stop at Madison Street.
19. Wentling Street. Vehicles traveling on Wentling Street shall stop at Andrews Street.
20. Poppe Lane. Vehicles traveling on Poppe Lane shall stop at Greenwood Avenue.
21. Bradford Parkway. Vehicles traveling east on Bradford Parkway shall stop at Maple Street.
22. Bradford Parkway. Vehicles traveling south on Bradford Parkway shall stop at Greenwood Avenue.
23. Douglas Street. Vehicles traveling on Douglas Street shall stop at Woodbridge Street.

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

(Code of Iowa, Sec. 321.345)

1. Waverly Road and Wentling Street. Vehicles approaching the intersection of Waverly Road and Wentling Street from the east, west and northeast shall stop before entering such intersection.
2. Waverly Road and Panama Street. Vehicles approaching the intersection of Waverly Road and Panama Street from the southwest, west and east shall stop before entering such intersection.
3. St. Lawrence Street and Aspinwall Street. Vehicles approaching the intersection of St. Lawrence Street and Aspinwall Street from the west, east and north shall stop before entering such 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. Lexington Avenue and Greeley Street. Vehicles approaching the intersection of Lexington Avenue and Greeley Street shall stop before entering such intersection.
2. Brasher Street and Bailey Street. Vehicles approaching the intersection of Brasher Street and Bailey Street shall stop before entering such intersection.
3. Panama Street and St. Lawrence Street. Vehicles approaching the intersection of Panama Street and St. Lawrence Street shall stop before entering such intersection.
4. Panama Street and Brasher Street. Vehicles approaching the intersection of Panama Street and Brasher Street shall stop before entering such intersection.
5. Amherst Boulevard and Lexington Avenue. Vehicles approaching the intersection of Amherst Boulevard and Lexington Avenue shall stop before entering such intersection.

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

(Code of Iowa, Sec. 321.345)

1. St. Lawrence Street. Vehicles traveling on St. Lawrence Street shall yield at Cedar Street.
2. St. Lawrence Street. Vehicles traveling on St. Lawrence Street shall yield at Woodbridge Street.
3. Douglas Street. Vehicles traveling on Douglas Street shall yield at Woodbridge Street.
4. Andrews Street. Vehicles traveling on Andrews Street shall yield at Woodbridge Street.
5. Mill Street. Vehicles traveling west on Mill Street shall yield at Chickasaw Street.
6. Andrews Street. Vehicles traveling on Andrews Street shall yield at Madison Street.
7. Andrews Street. Vehicles traveling on Andrews Street shall yield at Cedar Street.
8. Howard Street. Vehicles traveling on Howard Street shall yield at Dawn Drive.
9. Howard Street. Vehicles traveling on Howard Street shall yield at Dixie Drive.

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 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 Lexington Avenue and Merrill Street.
2. Intersection of Sample Street and Merrill Street.
3. Intersection of Greeley Street and Panama 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)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.04 Load Limits on Bridges

66.02 Permits for Excess Size and Weight

66.05 Truck Routes

66.03 Load Limits Upon Certain Streets

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

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

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every tractor trailer combination, 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. Greenwood Avenue from east City limits to Cedar Bridge.
- B. Sample Street from Main Street to Greeley Street.

- C. Greeley Street from Sample Street to south City limits.
 - D. Sample Street from Greeley Street to US Highway 218.
 - E. US Highway 218 from Sample Street to north and south City limits.
 - F. Lexington Avenue west City limits to Greeley Street.
 - G. Maple Street from north City limits to Greenwood Avenue.
 - H. Amherst Boulevard.
2. Deliveries Off Truck Route. Any tractor trailer combination, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.
(Code of Iowa, Sec. 321.473)
3. Employer's Responsibility. The owner or any other person employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
(Code of Iowa, Sec. 321.473)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street

67.03 Pedestrian Crossing

67.02 Hitchhiking

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

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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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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.08 No Parking Zones
69.02 Parking on One-Way Streets	69.09 All Night Parking Prohibited
69.03 Angle Parking	69.10 Truck Parking Limited
69.04 Manner of Angle Parking	69.11 Parking Limited
69.05 Parking for Certain Purposes Illegal	69.12 Snow Removal
69.06 Parking Prohibited	69.13 Snow Routes
69.07 Persons with Disabilities Parking	69.14 Controlled Access Facilities

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Main Street, on both sides, from Cedar Street to Lexington Avenue.
2. Cedar Street, on the north side, from Douglas Street to a point approximately 150 feet west of Douglas Street.
3. Brasher Street, on the east side, from Madison Street to a point approximately 85 feet north of Madison Street.

69.04 MANNER OF ANGLE PARKING. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of 18 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 72 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 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358[13])
14. Churches, Nursing Homes and Other Buildings. A space of 50 feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than 25 sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)
15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection do not apply to a vehicle parked in any alley that is 18 feet wide or less, provided that said vehicle is parked to deliver goods or services.
(Code of Iowa, Sec. 321.236[1])
16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.
(Code of Iowa, Sec. 321.358[15])
17. 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 that 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. Lexington Avenue, on the north side, from Jay Street to Main Street.
2. Chestnut Street, on the southwest side, from Charles City Road to Sample Street.
3. Main Street, on the east side, from Woodbridge Street to a point approximately 35 feet north of Woodbridge Street.
4. Andrews Street, on the west side, beginning 130 feet from Panama Street to Aspinwall Street.
5. Wabash Street, on both sides, from Charles City Road to 35 Wabash Street.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than 30 minutes between the hours of 3:00 a.m. and 6:00 a.m. of any day.

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

1. Main Street, from Sample Street to Lexington Avenue.

69.10 TRUCK PARKING LIMITED. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended a motor truck, semi-trailer, or other motor vehicle with trailer attached on any of the following designated streets. When actually receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic. The provisions of this section do not apply to pickup, light delivery or panel delivery trucks.

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

1. Main Street, from Sample Street to Lexington Avenue.
2. No tractor trailer combination and/or trailer parking on City streets or right-of-way.

69.11 PARKING LIMITED.

1. Ten Minute Parking. It is unlawful to park any vehicle for a continuous period of more than 10 minutes upon the following designated streets:
 - A. Maple Street, on the west and east sides, from Highway 346 to Mill Street.

2. Fifteen Minute Parking. It is unlawful while school is in session to park any vehicle between the hours of 8:00 a.m. and 4:00 p.m. for more than 15 minutes upon the following designated streets:

- A. Greeley Street, on the east side, from Bailey Street to Panama Street.
- B. Greeley Street, on the west side, from Panama Street to Aspinwall Street.

3. Twenty Minute Parking. It is unlawful to park any vehicle for a continuous period of more than 20 minutes upon the following designated streets:

- A. Woodbridge Street, on the south side, from Main Street for 100 feet east towards Jay Street.

69.12 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during measurable snow fall unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

(Code of Iowa, 321.236[1])

69.13 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])

69.14 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

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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)

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

(Code of Iowa, Sec. 805.8 & 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 fine for each violation charged under a simple notice of a fine shall be in the amount of \$15.00 for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$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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CHAPTER 74

GOLF CARTS AND UTILITY TRAIL VEHICLES

74.01 Purpose

74.02 Definitions

74.03 Operation on Roadways, Streets or Highways

74.04 Equipment Required

74.05 Unlawful Operation

74.06 Permits and Permit Holders

74.07 Penalty

74.01 PURPOSE. The purpose of this chapter is to permit and regulate the operation of golf carts and utility trail vehicles (UTVs) on streets within the City.

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

1. “Golf cart” means a three or four wheeled recreational vehicle generally used for transportation of persons in the sport of golf, which is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds.
2. “Operate” means to ride in or on, other than as a passenger, use, or control the operation of a golf cart in any manner, whether or not the golf cart is moving.
3. “Operator” means a person who operates or is in actual physical control of a golf cart.
4. “Roadway” means that portion of a highway improved, designated, or ordinarily used for vehicular travel.
5. “Street or highway” means the entire width between property lines of every way or place or whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular travel.
6. “Utility trail vehicle” or "UTV" means a motorized vehicle , with not less than four and not more than eight non-highway tires or rubberized tracks, which 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.

74.03 OPERATION ON ROADWAYS, STREETS OR HIGHWAYS.

1. Golf carts and UTV's shall not be operated on Highway 346.
2. Golf carts and UTV's may be operated on the streets of the City after first obtaining a permit as provided herein. Persons who obtain a permit as required herein are authorized to operate a motorized golf cart or UTV on roadways or portions thereof within the City.
3. The operation of golf carts and UTV's on City streets is to be only by persons possessing a valid driver's license or by special permit for disabilities and 18 years of age or older.
4. It is unlawful for any parent, guardian, or other person having the care, custody, and control of a minor under the age of 18 to knowingly or negligently permit or allow such a minor to violate the provisions of this chapter.

5. The operation of golf carts and UTV's on City streets is to be only from sunrise to sunset. They shall not be operated when visibility is such that there is insufficient light to clearly see persons and vehicles at a distance of 500 feet.
6. The number of occupants in the motorized golf cart or UTV may not exceed the design occupant load.
7. Golf carts and UTV's shall not be driven upon the Highway 346 bridge.

74.04 EQUIPMENT REQUIRED.

1. Golf carts and UTV's shall be equipped with a bicycle safety flag for operation on City streets, the flag shall be above the roof line of the golf cart or UTV.
2. Golf carts and UTV's shall be equipped with adequate brakes to be operated on City streets.
3. Golf carts and UTV's shall be in good mechanical condition and thoroughly safe for transportation of passengers.
4. Golf cart and UTV operators and passengers are required to wear seatbelts if golf carts and UTV's are equipped with them from the original manufacturer.
5. All golf carts and UTV's are required to have a slow moving sign located on the back of the vehicle.

74.05 UNLAWFUL OPERATION. A person shall not drive or operate a golf cart or UTV:

1. In a careless, reckless, or negligent manner as to endanger the person or property of another or cause injury or damage thereto.
2. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
3. In or on any park, playground, sidewalk, or upon any publicly owned property except with the permission of the governing body thereof.

74.06 PERMITS AND PERMIT HOLDERS. For persons who wish to operate golf carts and UTV's as a mode of transportation within the City, the following shall apply:

1. An application for a permit shall be made on a form supplied by the City.
2. The application shall contain the name and address of the applicant and the make, model, year, and serial number of the golf cart or UTV.
3. The applicant shall provide a valid driver's license issued by the Iowa Department of Transportation, and be 18 years or older on the date of issuance.
4. The applicant shall provide and maintain public liability insurance and bodily injury insurance in the amount required by the Code of Iowa.
5. The annual cost for such a permit is \$50.00 and is payable at the time the permit is granted. Permits may be granted for one year and will be valid from January 1 through December 31. Permits may be purchased at any time during the year but will be valid only through December 31.
6. All permits shall be issued for a specific motorized golf cart or UTV and individual, except as otherwise stated. Permit holders will be issued a number to affix to the left side of the golf cart or UTV, near the front.

7. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund of the permit fee.

74.07 PENALTY. In addition to the suspension or revocation of the permit, a person who violates this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under the *Code of Iowa*.

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

75.02 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 which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

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 has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

A. “Off-road utility vehicle – type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – type 2” includes vehicles, other than type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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)

75.03 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)

75.04 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 that 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 90 degrees 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 that 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.

75.05 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[4]*)
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[1h]*)
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.”
6. Direct Crossing. An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:
(*Code of Iowa, Sec. 321I.10[5]*)
 - A. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
 - B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
 - C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
 - D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

- E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city to a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city.

75.06 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)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$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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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Speed

76.06 Emerging from Alley or Driveway

76.07 Carrying Articles

76.08 Riding on Sidewalks

76.09 Towing

76.10 Improper Riding

76.11 Parking

76.12 Equipment Requirements

76.13 Special Penalty

76.01 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.

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

76.02 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 that 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)

76.03 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])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two 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])

76.05 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])

76.06 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])

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.
(Code of Iowa, Sec. 321.236[10])

76.08 RIDING ON SIDEWALKS. The following provisions apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon the sidewalks of Main Street from Cedar Street to Madison Street on Monday through Saturday, except holidays, during the hours of 9:00 a.m. to 6:00 p.m.
(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])

76.09 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.

76.10 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.

76.11 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])

76.12 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 emitting a white light visible from a distance of at least 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 that is visible from all distances from 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 that will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Code of Iowa, Sec. 321.236[10])

76.13 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 this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five days for the first offense, 10 days for a second offense and 30 days for a third offense.

CHAPTER 77

BOATING REGULATIONS

77.01 Title and Purpose	77.10 Speed Restrictions
77.02 Definitions	77.11 Swimming Areas
77.03 Enforcement	77.12 Careless Operation
77.04 General Regulations	77.13 Accidents – Reports
77.05 Special Regulations	77.14 Mooring at Fixed Docks
77.06 Buoys, Traffic Markers and Restricted Areas	77.15 Mooring at Floating Docks
77.07 Tampering with Markers Prohibited	77.16 Required Obedience
77.08 Water Skiing	77.17 Procedure on Arrest
77.09 Water Skiing Right-of-way	77.18 Official Duty Exemption

77.01 TITLE AND PURPOSE. The purpose of this chapter is to regulate the operation and traffic of boats and other watercraft on the Cedar River above the dam in the City and to provide for the enforcement of such regulations. This chapter may be known and cited as the “Boat Traffic Code.”

77.02 DEFINITIONS. Where words and phrases used in this chapter are defined by the laws of the State, such definitions shall apply to this chapter. The following terms are also defined for use in this chapter:

1. “Motorboat” means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, or vessel propelled attached to another craft which is propelled by machinery.
2. Whenever the term “water skiing” is used in this chapter, it also applies to surfboarding and aquaplaning, as if such words were also used.

77.03 ENFORCEMENT. Provisions of this chapter and State law relating to boats and watercraft shall be enforced by the officers of the Police Department, the Police Chief and by any special officer or officers who may be appointed by the Mayor for such purpose. Any person who observes a violation of the provisions of this chapter may file an information before the Mayor, charging said violation in the manner prescribed by law.

77.04 GENERAL REGULATIONS. No person shall operate a vessel on the Cedar River above the dam in the City, within the corporate limits of the City, in violation of the provisions of Chapter 462A of the *Code of Iowa*, or rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation.

77.05 SPECIAL REGULATIONS. The Police Chief or special officer may make and enforce temporary regulations to cover emergency, special conditions, or regattas or races authorized by the Council, and it is unlawful for any person to refuse to comply with any lawful order, signal, direction or regulations of said officer.

77.06 BUOYS, TRAFFIC MARKERS AND RESTRICTED AREAS. The areas of the Cedar Lake in Nashua, Iowa, east of Wabash Street and north of Charles City Road and north

of the intersection of Wabash Street and Cedar View Circle shall be buoyed a no-wake and swimming area pursuant to the following description:

1. No Wake. Everything west of a line approximately 150 feet east of the intersection of Wabash Street and Charles City Road, and then north 380 feet.
2. No Wake. From a point approximately 131 feet north of the intersection of Wabash Street and the north entrance to Cedar View Circle, extending 80 feet east and 80 feet west of this point along the lake shore and extending approximately 110 feet north away from the lake shore.
3. Swim Area. From a point approximately 131 feet north of the intersection of Wabash Street and the north entrance to Cedar View Circle, extending 30 feet east and 30 feet west of this point along the lake shore and extending approximately 60 feet north away from the lake shore.

77.07 TAMPERING WITH MARKERS PROHIBITED. No person without lawful authority shall attempt to or in fact alter, deface, injure, knock down, or remove any official buoy, traffic marker, or restriction sign.

77.08 WATER SKIING. Water skiing shall be permitted upon the waters of the Cedar River within the City limits as follows:

1. Water Ski Traffic Pattern. All boats towing water skiers, or a surfboard or an aquaplane shall keep to the right hand side of the center of the said river and shall travel in a relative counter-clockwise pattern. This shall be known as the water ski traffic pattern. All boats towing water skiers shall enter the traffic pattern at approximately a 45 degree angle, and thereafter shall keep to the right hand side of the center of the river, or when buoys are in place to mark the center of the river shall keep to the right hand side of said buoys, and will travel in said pattern until leaving the said pattern to dock or to leave the City limits.
2. Down Skier. If a water skier becomes dislodged from the skis, the towing boat shall slow down and turn to the left to pick up the skier taking due care not to obstruct other traffic.
3. Towing Ski Rope. No operator of a boat shall tow a ski rope unless at the time he or she is participating in the act of towing a water skier or is about to tow a water skier and is in the immediate vicinity of said water skier.
4. Ski Safety. All persons riding or operating water skis, surfboards or aquaplanes shall ride or operate the same in a careful and prudent manner and with due regard for the safety of all persons, boats, watercraft and property and shall not swerve into the path of another boat or within 50 feet of any swimmer or shall not approach closer than 100 feet from shore except when beginning a ride or docking any person failing to ride or operate water skis, surfboard or aquaplane as herein set forth shall be guilty of careless operation of the same.
5. Distance Allowed from Shore. Except when docking or beginning a ride, the operator of a boat towing a water skier shall stay at least 100 feet from shore.
6. Other Rules. All of the other rules of boating and navigation set forth in this chapter shall also apply to water skiers and operators of boats towing water skiers.

77.09 WATER SKIING RIGHT-OF-WAY. When water skiing is conducted in the manner herein prescribed, the operator of any other motor boat not participating in towing a water skier shall yield the right-of-way to a boat pulling skis, but the operator of the towing boat and the water skier shall exercise due care not to collide with any other person or boat which has slowed or stopped to yield the right-of-way.

77.10 SPEED RESTRICTIONS. Speed restrictions are applicable as follows:

1. Above Dam. Any person operating a motor boat on the waters of the Cedar River above the dam within the City limits shall operate the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to other boat traffic, conditions of the water, and visibility and of any other condition or conditions then existing, and no person shall operate any boat at a speed greater than will permit said person to bring it to a stop within the assured clear distance ahead.
2. Adjacent to Shore. No person shall operate a boat at a speed greater than five miles per hour when within 100 feet or less of the shore.
3. Obstructed Vision. No person shall operate a boat at a speed greater than 10 miles per hour unless vision is unobstructed 300 feet ahead.
4. Near Swimmers. No person shall operate a boat at a speed greater than the slowest possible speed for the particular boat when within 50 feet of any swimmer providing that the swimmer is within 100 feet from shore or is accompanied by a boat when more than 100 feet from shore.
5. Highway Bridge. The operator of a boat going under the bridge on Highway 346 shall enter under the south span and leave under the north span and shall slow the boat's speed to five miles per hour except in case of emergency.

77.11 SWIMMING AREAS. It is unlawful for any person operating a motor boat to enter any area, or to approach within 50 feet of a swimming area. A swimming area shall be any area, public or private, which may be generally used for swimming or which may be designated as such.

77.12 CARELESS OPERATION. All boats, motor driven or otherwise, shall be operated in a careful and prudent manner and with due regard for the safety of all persons, boats, watercraft and property, and any person failing to operate a boat in such a manner as herein set forth shall be guilty of careless operation of a boat.

77.13 ACCIDENTS; REPORTS. Every person who has an accident arising out of the use or operation of a boat, motor propelled or otherwise, shall report said accident immediately to the nearest police officer of the City.

77.14 MOORING AT FIXED DOCKS. No person shall moor, tie to, or otherwise use, occupy, or otherwise impede the use of any fixed dock for any purpose other than for loading or unloading purposes and then for not more than 15 minutes.

77.15 MOORING AT FLOATING DOCKS. No person shall moor, tie to, or otherwise use or occupy any floating dock for a period of time in excess of 48 hours.

77.16 REQUIRED OBEDIENCE. Failure of any person to abide by the provisions of this chapter and the Iowa Statutory law relating to boats and navigation of the same is in violation of this chapter.

77.17 PROCEDURE ON ARREST. Whenever a peace officer or enforcement officer has reasonable cause to believe that a person has violated any provision of this chapter such officer may:

1. Arrest. Arrest such person and take such person before the proper court.
2. Summons. Without arresting the person prepare a written summons to appear in court, containing the name and address of such person, the offense charged and the time and place where such person shall appear to answer said charge. Any person who fails to appear at the time and place designated in the summons shall be guilty of a simple misdemeanor.

77.18 OFFICIAL DUTY EXEMPTION. Members of the Department of Natural Resources, its deputies, agents and employees, and the Police Chief or any special officer of the City shall not be deemed violating the provisions of this chapter applying to work done while on duty and acting within the scope of their employment, or while on official duty patrolling and enforcing the provisions of this chapter.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

80.01 DEFINITIONS. For use in this chapter, the following terms are defined:
(*Code of Iowa, Sec. 321.89[1] & Sec. 321.90*)

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa State Patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private

property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 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 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 10-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the 10-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])

80.04 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 80.03. 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 80.03.

(Code of Iowa, Sec. 321.89[3b])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay \$3.00 if claimed within five days of impounding, plus \$1.00 for each additional 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])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 90 days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions

81.03 Crossing Maintenance

81.02 Obstructing Streets

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

1. “Operator” means any individual, partnership, corporation or other association that owns, operates, drives, or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of 10 minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.03 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Fee for Permit and Connection Charge	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting Off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	90.20 Private Wells Prohibited; Exceptions

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

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

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy, or use shall be

connected to the public water system, provided that said public water system is located with 200 feet (61 meters) of the property line of such owner.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 60 days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay \$25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of \$100.00 applicable to all properties to be connected to the City water main, the cost of which main was not paid by the owners of the property served by means of a special assessment or construction by the subdivider thereof.

(Code of Iowa, Sec. 384.84)

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

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

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

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

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

1. **Independent Services.** No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. **Sizes and Location of Taps.** All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to at least 12 inches beyond the shut-off valve on the side of the property 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. Prior to such installation, the property owner or contractor responsible for the installation shall furnish a diagram of the exact location of pipes to be installed on a form furnished by the Clerk.

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. Any lead-lined water service pipe that is discovered shall be replaced by the property owner with approved materials listed in Section 90.11.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.
(Code of Iowa, Sec. 364.12[3a & h])

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

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

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

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

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

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

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

90.20 PRIVATE WELLS PROHIBITED; EXCEPTIONS. It is unlawful for any person, firm, or corporation to drill, construct, operate, or maintain a well or wells within the City limits for the purposes of bringing to the surface of the ground any subterranean and/or underground water. This section shall not apply to the following:

1. Any wells existing and in operation within the City limits on the date of the passage of the ordinance codified in this section or to the replacement of existing wells. The owner of any existing well to be replaced shall be required to secure a permit from the City Council for the drilling and operating of the replacement well. If a replacement well is installed, the abandoned well is required to be plugged according to Section 455B.190 of the *Code of Iowa*. If in the City Council's judgment an existing well is in such a state of disrepair or of such construction that the health and safety of the City public water supply could be compromised, the City Council shall have the authority to require the plugging of the existing well according to said Section 455B.190.
2. Any wells which, in the opinion of the City Council, are required to be drilled by it for the purposes of obtaining and furnishing additional water for the general public use and the preservation and protection of the public health, safety and general welfare of the residents of the City.
3. Closed loop, vertical, geothermal heating and cooling loop fields. However, prior to the installation of the vertical loop field a City permit must be obtained. In order to receive a permit from the City, a map of the proposed loop must be provided along with a completed well installation permit signed by the County Sanitation or a member of the Water Supply Section of the Iowa Department of Natural Resources authorized to provide water well installation permits.

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CHAPTER 91

WATER METERS

91.01 Purpose

91.05 Meter Setting

91.02 Water Use Metered

91.06 Meter Repairs

91.03 Fire Sprinkler Systems; Exception

91.07 Right of Entry

91.04 Location of Meters

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

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

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

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

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CHAPTER 92

WATER RATES

92.01 Service Charges

92.02 Meter Fee

92.03 Rates For Service

92.04 Rates Outside the City

92.05 Billing for Water Service

92.06 Service Discontinued

92.07 Lien for Nonpayment

92.08 Lien Exemption

92.09 Lien Notice

92.10 Customer Deposits

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 METER FEE. Each customer shall pay monthly meter rental at the following rates, based on the size of the meter:

Size	Amount	Size	Amount
¾-inch	\$ 2.00	2½-inch	\$ 4.00
1-inch	\$ 2.50	3-inch	\$ 4.50
1½-inch	\$ 3.00	3½-inch	\$ 5.00
2-inch	\$ 3.50	4-inch	\$ 5.50

92.03 RATES FOR SERVICE. Water service shall be furnished at the following rates within the City:

(Code of Iowa, Sec. 384.84)

1. First 2,618 gallons or 350 cubic feet used per month @ \$16.96 (minimum bill).
2. Each additional gallon used per month @ .006479 per gallon or .048433 per cubic foot. (Note: These are old rates, new rates are ordinance 333 (3-16-2020))

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

(Code of Iowa, Sec. 364.4 & 384.84)

92.05 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first working day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 20th day of the month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent of the gross amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Delivery of Red Tags. A RED TAG will be delivered to the residences of all delinquent accounts three to five working days after the opportunity of a hearing has expired. The RED TAG will denote the date, time, account number and address. The RED TAG will clearly note the 24-hour water shut-off notification.
5. Fees. A fee of \$20.00 shall be charged to deliver the RED TAG 24-hour water shut-off notification. A fee of \$20.00 shall be charged to turn off the water and a fee of \$20.00 will 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.

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

(Code of Iowa, Sec. 384.84)

92.08 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. **Water Service Exemption.** The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.
3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.
4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

92.09 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate

persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.10 CUSTOMER DEPOSITS. There shall be required from every customer not the owner of the premises served a \$150.00 deposit intended to guarantee the payment of bills for service.

(Code of Iowa, Sec. 384.84)

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CHAPTER 93

WATER EMERGENCY

93.01 Emergency Declaration

93.05 Prohibited and Restricted Water Usage

93.02 Rationing

93.06 Reduced Service Flow

93.03 Increased Rates

93.07 Penalties; Discontinuance of Service

93.04 Adjustment of Increased Rates

93.01 EMERGENCY DECLARATION. The Council may declare, by resolution, a public emergency when it finds the water supply in the municipal system has become depleted because of drought or mechanical failure.

93.02 RATIONING. In the event of such declaration, water may be rationed until the emergency is declared as no longer existing by public notice and the requirements for which are as follows:

1. Allocation. Each customer should be allocated an amount of water equal to such customer's average consumption for the billing period prior to the effective date of the declared emergency.
2. Appeal and Adjustment. Any customer may file a written appeal within ten days following notice of the allocation with the Water Superintendent requesting an adjustment of the amount thereof.
3. Adjustment Factors. For single family residential customers, the base allocation may be increased to the actual average consumption for the previous winter period during the months of November to April, inclusive. For commercial, industrial, institutional and multi-family residential use, such allocation may be increased using the same factors as are applicable to single family residential customers and in addition thereto other factors, such as production, service and occupancy data.

93.03 INCREASED RATES. In addition to the regular rates for water consumption, a customer shall be liable for payment of \$20.00 per 1,000 gallons consumed in excess of the allocation.

93.04 ADJUSTMENT OF INCREASED RATES. Upon written application to the Water Superintendent, a customer may be granted an adjustment because of mechanical malfunction, but a customer in such case must be free from any contributory negligence and also prove that such defect or failure was repaired without delay and evidenced in the form of a reputable plumber's receipted invoice. Any such adjustment shall be limited to the billing period immediately preceding such repair. Such adjustment and the amount thereof shall be discretionary on the part of the Water Superintendent.

93.05 PROHIBITED AND RESTRICTED WATER USAGE. During the duration of such emergency, the following water usages are prohibited and restricted.

1. Restricted Hours. Between the hours of 8:00 a.m. and 8:00 p.m., there shall be no outdoor use of water.

2. Limited Use. The irrigation by the use of water in areas containing flowers, vegetable gardens, shrub trees less than 4 years old, new seeding or sod is prohibited, except once each week for not more than five minutes during the hours of 8:00 p.m. and 8:00 a.m.
3. Absolute Prohibition. No water may be used for washing vehicles of any character and description or for private swimming pools, wading pools or other outdoor impoundment, excepting therefrom commercial establishments.

93.06 REDUCED SERVICE FLOW. Subject to written notice and opportunity for hearing, the Water Superintendent may reduce the flow of water to any customer when it appears to the Superintendent that such customer is using water other than in accordance with the provisions of this chapter.

93.07 PENALTIES; DISCONTINUANCE OF SERVICE. Any violation of this chapter, including failure to comply with any of its requirements, shall constitute a simple misdemeanor. Failure to pay any fine and costs imposed hereunder within five days after assessment thereof shall require the Water Superintendent to cause the discontinuation of further water service until after the fine and costs have been paid, plus a fee of \$5.00 for reconnection.

CHAPTER 94

WATER LINE EXTENSIONS

94.01 Purpose

94.04 Construction by Owner

94.02 Definitions

94.05 Connection Charge

94.03 Construction by City

94.06 Rights of City

94.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of water mains to serve property not served by an existing water line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

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

1. “Builder” means the owner of land who causes a water main to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.
2. “Estimated cost” means a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, the materials to be used or installation methods, the determination of the Council shall be final and conclusive.

94.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a property or a public street where no water main has been installed may make application to the Council for the installation of a water main along such property and in the street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the total estimated cost of the installation from the point where the water main is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts an adjoining property or the public street, shall be submitted to the Council.
2. Construction. Upon receipt of the deposit, the City shall construct the water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within 30 days after the presentation of a bill for such additional cost.
4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the water main, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Maximum Cost. The additional cost of installation, as contemplated in subsections 3 and 4 above, shall not exceed 110 percent of the estimated cost.
6. Connecting Property. The expense of connecting the property of the builder to the water main shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

94.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a property or public street in which no water main has been previously installed desires to construct said water main at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a water main, in accordance with the following:

1. City Supervision. The installation of such a water main by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.
2. Surety Bond. When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than 110 percent of the total estimated cost of the installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the property or street, and the bond shall guarantee the installation of the water main in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to public property incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the water main.
3. Ownership of Water Main. After the water main has been installed, it shall become the property of the City.
4. Cost Approval. For purposes of determining connection charges under Section 94.05 below, costs incurred by the owner shall be certified by the City and only so much of said costs as are approved by the City shall be used in determining connection charges as provided hereafter.

94.05 CONNECTION CHARGE. Following the installation of an extension to the water system under the provisions of this chapter, there shall be paid to the City a connection charge in an amount equal to one-half the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such water main. Such connection charge shall be paid to the City prior to making any connection to said water main.

94.06 RIGHTS OF CITY. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

[The next page is 495]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose	95.06 Service Outside the City
95.02 Definitions	95.07 Right of Entry
95.03 Superintendent	95.08 Use of Easements
95.04 Prohibited Acts	95.09 Special Penalties
95.05 Sewer Connection Required	

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.
11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

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

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

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.
(Code of Iowa, Sec. 716.1)
2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.
(Code of Iowa, Sec. 364.12[3f])
6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.
(Code of Iowa, Sec. 364.12[3f])

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary 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 30 days after date of official notice from the City to do so provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

*(Code of Iowa, Sec. 364.12[3f])
(IAC, 567-69.1[3])*

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit	96.06 Interceptors Required
96.02 Permit Fee and Connection Charge	96.07 Sewer Tap
96.03 Plumber Required	96.08 Inspection Required
96.04 Excavations	96.09 Property Owner's Responsibility
96.05 Connection Requirements	96.10 Abatement of Violations

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

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of \$25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of \$150.00 applicable to all properties to be connected to a public sewer, the cost of which sewer was not paid by the owners of the property to be served by means of special assessment or construction by the subdivider thereof.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or

- driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
 4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.
 5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.
 6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth inch per foot.
 - B. Minimum grade of one-eighth inch per foot.
 - C. Minimum velocity of two feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
 7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
 8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
 9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.
 10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.
 11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
 12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be

required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

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

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

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

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

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 of Superintendent

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 that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to 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 milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.

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

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

- 1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
- 2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
- 3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
- 4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- 5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
- 6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- 7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the

- composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. **Radioactive Wastes.** Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
 9. **Excess Alkalinity.** Any waters or wastes having a pH in excess of 9.5.
 10. **Unusual Wastes.** Materials that exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
 11. **Noxious or Malodorous Gases.** Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
 12. **Damaging Substances.** Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
 13. **Untreatable Wastes.** Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. **Rejection.** Reject the wastes by requiring disconnection from the public sewage system;
2. **Pretreatment.** Require pretreatment to an acceptable condition for discharge to the public sewers;
3. **Controls Imposed.** Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

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

98.09 Septage Fee

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.

98.09 SEPTAGE FEE. A charge of three cents per gallon will be charged for septage disposal of on-site treatment systems.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Purpose	99.08 Surcharge
99.02 Definitions	99.09 Toxic Waste
99.03 Revenue Required	99.10 Applicability
99.04 Replacement Account	99.11 Payment of Bills
99.05 Basis of Charges	99.12 Biannual Review of Charges
99.06 Calculations of Usage	99.13 Lien for Nonpayment
99.07 Rates for Service	

99.01 PURPOSE. It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City to collect charges from all users who contribute wastewater to the City's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works.

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

1. "BOD" (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20°C, expressed in milligrams per liter (mg/l).
2. "Normal domestic wastewater" means wastewater that has a BOD₅ concentration of not more than 350 mg/l and a suspended solids concentration of not more than 400 mg/l.
3. "Operation and maintenance" means all expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for the management and maintenance of the sewer works to achieve the capacity and performance for which such works were designed and constructed.
4. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
5. "Residential contributor" means any contributor to the City's treatment works whose lot, parcel of real estate or building is used for domestic dwelling purposes only.
6. "SS" (denoting Suspended Solids) means solids that either float on the surface or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.
7. "Treatment works" means any devices and systems used for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations

thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

8. “Useful life” means the estimated period during which the wastewater treatment works will be operated.

9. “User charge” means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

10. “Water meter” means a water volume measuring and recording device, furnished and/or installed by the City or furnished and/or installed by a user and approved by the City.

99.03 REVENUE REQUIRED. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the treatment works shall be established by this chapter.

99.04 REPLACEMENT ACCOUNT. The replacement account is an account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works. Deposits in the replacement account shall be made annually in the amount of \$15,000.00 less expenses for the year or a greater amount to be determined by the Council.

99.05 BASIS OF CHARGES. Each user shall pay for the services provided by the City based on said user’s use of the treatment works as determined by water meters acceptable to the City, unless otherwise approved by the Council.

99.06 CALCULATIONS OF USAGE. For residential contributors, monthly user charges will be based on water usage as metered. For industrial and commercial customers, user charges will be based on water used during the current month as metered. For a user whose water is not returned to the wastewater collection system, the user charge for such customer may be based on a wastewater meter installed and maintained at the customer’s expense and as acceptable to the City.

99.07 RATES FOR SERVICE. Sewer service shall be furnished at the following rates:

1. First 2,618 gallons or 350 cubic feet used per month @ \$28.27 (minimum bill).
2. Each additional gallon used per month @ .010799 per gallon or .06721 per cubic foot. (Note: These are old rates new rates are ordinance #332 (3-16-2020))

99.08 SURCHARGE. For those customers who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the Council.

99.09 TOXIC WASTE. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works, or any user which discharges any substances which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the Council.

99.10 APPLICABILITY. The user charge rates established in this chapter apply to all users, regardless of their location, of the City's treatment works.

99.11 PAYMENT OF BILLS. All sewer service charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.05 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.06 if the combined service account becomes delinquent, and the provisions contained in Section 92.09 relating to lien notices shall also apply in the event of a delinquent account.

99.12 BIENNIAL REVIEW OF CHARGES. The City shall review the user charge system at least every two years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

99.13 LIEN FOR NONPAYMENT. Except as provided for in Section 92.08 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 100

SEWER EXTENSIONS

100.01 Purpose

100.02 Definition

100.03 Construction by City

100.04 Construction by Owner

100.05 Others Required to Connect

100.06 Building Sewers Installed

100.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

100.02 DEFINITION. For the purpose of this chapter, “builder” means the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

100.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts the said public street, shall be submitted to the Council.
2. Construction. Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. Additional Costs. In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the sanitary sewer, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.
5. Connecting Property. The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

100.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct

said sewer at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a sewer, in accordance with the following:

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.
2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than 110 percent of the total estimated cost of the installation for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the sewer in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the sanitary sewer.
3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

100.05 OTHERS REQUIRED TO CONNECT. Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect any sewage generating facilities into said sanitary sewer, as required by Chapter 95.

100.06 BUILDING SEWERS INSTALLED. Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party, shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within 30 days of the completion of the installation.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.08 Toxic and Hazardous Waste
105.02 Definitions	105.09 Waste Storage Containers
105.03 Sanitary Disposal Required	105.10 Prohibited Practices
105.04 Health and Fire Hazard	105.11 Burning During Burn Ban Prohibited
105.05 Open Burning Restricted	105.12 Sanitary Disposal Project Designated
105.06 Separation of Yard Waste Required	105.13 Recycling Program
105.07 Littering Prohibited	

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[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
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 not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
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.
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) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.
(Code of Iowa, Sec. 455B.301)
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 in Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:
(Code of Iowa, Sec. 455B.301)
 - A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
 - B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
 - C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
 - D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
 - E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

- F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.
- G. Post-use polymers or recoverable feedstocks that are any of the following:
 - (1) Processed at a pyrolysis or gasification facility.
 - (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

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

(Code of Iowa, Ch. 657)

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

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances, provided that such burning is restricted to daytime hours—one-half hour after sunrise to one-half hour before sunset:

(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. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.
(IAC, 567-23.2[3b])
3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.
(IAC, 567-23.2[3c])
4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.
(IAC, 567-23.2[3d])
5. Recreational Fires. Recreational fires no greater than three feet in diameter and contained in an enclosure specifically designed to house a fire.

- A. “Recreational fire” means fire for cooking, heating, camping and recreation using clean dry wood or charcoal.
 - B. “Clean dry wood” is defined as tree limbs, bark, or branches that have been allowed to dry to a point where it is easily combustible without creating undue amounts of smoke plus other wood products free of glue, paint, varnish, stain and preservatives.
 - C. General conditions for recreational fires:
 - (1) Prohibited. The Fire Chief, County or State may prohibit any or all open burning when atmospheric conditions or local circumstances make such fires hazardous or a nuisance.
 - (2) Attendance of Open Fires. Open fires shall be constantly attended by an adult person until such fire is extinguished. This person shall have a hose connected to the water supply or other fire-extinguishing equipment readily available for use.
 - (3) Authority to Investigate. The City shall have authority to enter onto private property to investigate and determine if violations for this subsection exist or to extinguish fires.
 - D. Authority to Extinguish. The City, through its Public Works Department, Fire Department, or Police Department is authorized to prohibit or immediately extinguish any fires occurring within the City that are deemed by City Officials to violate prohibitions of this subsection or to constitute an emergency or a danger to the safety of persons or property within the City.
6. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.
- (IAC, 567-23.2[3g])*
7. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.
- (IAC, 567-23.2[3h])*
8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.
- (IAC, 567-23.2[3i])*
9. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.
- (IAC, 567-23.2[3j])*
10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.
- (IAC, 567-23.2[2])*

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or hauled to the City's disposal site. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

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

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

105.08 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 that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.09 WASTE STORAGE CONTAINERS.

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential solid waste and recyclable containers shall be provided by the collector or comply with the collector's requirements.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste and recyclable materials awaiting collection shall be placed outdoors at some easily accessible place, no further than six feet from the curb or traveled way.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.
5. Prohibited Practices All Inclusive. Except as expressly permitted elsewhere herein, there shall be no burning of material which includes (but is not limited to) garbage, plastics, Styrofoam, disposable diapers, and rubber products.
6. Burn Barrels. To maintain on any premises any barrel or drum set vertically on an end and used for the burning of solid waste, rubbish refuse, landscaping waste, or residential waste.
7. Trash Dumpsters. Set, place or locate any trash dumpster on any City right-of-way or within 35 feet of any street right-of-way, or in any yard area which is located between a side of the home and the street right-of-way. This measurement shall not include street right-of-way that is commonly known as an alley.
8. Location of Trash Dumpsters. No dumpster can be left, located, placed or remain at any residential location for more than 30 continuous days unless extended by a 30-day extension, with no more than a maximum of two continuous extensions. Extensions may be granted by the Mayor or the Police Chief upon application made by the applicant and filed with the City Clerk. The application shall state the name, address and location of the dumpster, and shall specify the reasons the request is made.

105.11 BURNING DURING BURN BAN PROHIBITED. It is unlawful for any person to allow or permit any open burning during a duly authorized burn ban. The minimum fine for a violation of this section is \$250.00.

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

105.13 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.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service

106.02 Collection Vehicles

106.03 Loading

106.04 Frequency of Collection

106.05 Bulky Rubbish

106.06 Right of Entry

106.07 Contract Requirements

106.08 Collection Fees

106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, 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. All solid waste shall be disposed of only at the sanitary landfill facilities designated as the official "Public Sanitary Disposal Project".

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

(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, but not less than once each week. Recyclable material shall be collected from residential and commercial units twice a month.

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

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

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for removal, hauling, or disposal of earth and

rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 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 for the same, in accordance with the following:

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

1. **Property Classifications.** Property shall be designated or classified as follows for the purpose of this chapter. Each location, building, or premises shall be considered a separate and distinct customer or user of the solid waste collection service, whether owned or controlled by the same person or not.

- A. "Residential property" means any dwelling, house, mobile home, trailer coach, or other building usually or normally occupied and used as a dwelling, home, or residence. Single unit residential properties shall participate in and be charged as a separate residence according to the "Pay As You Throw" (PAYT) plan.
- B. "Single facility multi-family residential property" means multi-family residential properties operated as a single facility providing common meals and laundry services, including nursing homes, assisted living facilities, and residential facilities.
- C. "Commercial business property" includes businesses, school property owned and used by the school district, and property owned and used by the County.
- D. "Church property" includes any structure owned by any religious organization and used as a church or place of worship.
- E. "Multi-residential property" means any dwelling, house, mobile home, trailer coach, or other building usually or normally occupied and used as a dwelling, home, or residence and includes two or more units.

2. **Rates.**

- A. Residential and multi-residential properties must participate in the "Pay As You Throw" (PAYT) pricing program pursuant to the refuse collection contract with the contractor for the collection of solid waste for the City. The monthly charge for solid waste collection from a residence is as follows for weekly collection:

35-gallon container	\$13.50	(Old rates – New rates Ord #331
65-gallon container	\$17.00	3-16-2020)
95-gallon container	\$22.00	

Solid waste shall be stored and collected only in approved containers. Residential pricing shall include bi-weekly curbside recycling collection in an approved 65-gallon container. Lids of all solid waste and recycling containers must be completely closed for collection to occur.

- B. The monthly charge for a single facility multi-family residential property that is charged as a commercial business (i.e., nursing homes, assisted living facilities, residential facilities) may elect either:
 - (i) to participate in and be billed as a residential unit according to the

PAYT plan; or (ii) to contract dumpster services which shall be charged by the collection contractor.

- C. Churches and commercial businesses may elect either: (i) to participate in and be billed as a residential unit according to the PAYT plan; or (ii) to contract dumpster services which shall be charged by the collection contractor.
 - D. The resident has the ability to request one container size change per 12-month period.
- 3. Recycling. The fee for recycling is \$3.22 per month for each customer.
 - 4. Brush Site. The fee for maintenance of the brush site is 50 cents per month for each customer.
 - 5. 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 92.05 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.06 if the combined service account becomes delinquent, and the provisions contained in Section 92.09 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 92.08 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 property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.09 Information Provided
110.02 Restrictions	110.10 Extension of System
110.03 Excavation	110.11 Standard of Operation
110.04 Location of Equipment	110.12 City Police Regulations
110.05 Restoration	110.13 Franchise Fee
110.06 Vacated Property	110.14 Other Fees
110.07 Relocation of Facilities	110.15 Termination
110.08 Indemnification	110.16 Waiver

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called “Company”) and to its successors and assigns the right and nonexclusive franchise to acquire, construct, erect, maintain and operate in the City a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a 10-year period from and after the effective date of the ordinance codified in this chapter.[†] However, the franchise shall continue for an additional 10 years if neither the City nor Company provides written notice to the other party of its desire to terminate the franchise, within 90 days of the scheduled 10-year expiration date. In the event neither party requests amendments or termination, this franchise will terminate on the twentieth anniversary of the original effective date.

110.02 RESTRICTIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

110.03 EXCAVATION. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

110.04 LOCATION OF EQUIPMENT. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”) at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley. Relocation expenses for other hard surfaces, including pedestrian and non-motorized

[†] **EDITOR’S NOTE:** Ordinance No. 313 adopting a natural gas franchise for the City, was passed and adopted in 2018.

vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree and vegetation removal must be completed by the City as part of the City's project and are necessary, whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree/vegetation removal does not coincide with the Company facilities relocation schedule and Company must remove trees/vegetation that are included in the City's portion of the project, the City shall either remove the material at its cost or reimburse the Company for the expenses incurred to remove said vegetation or trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 RESTORATION. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to this Code of Ordinances regarding its depth and composition. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, State or federal rules, regulations or laws.

110.06 VACATED PROPERTY. The City's vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than 60 days' advance notice of the City's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

110.07 RELOCATION OF FACILITIES. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City at any time during the previous 10 years. Pursuant to relocation of Company facilities as may be required hereunder, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

110.08 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural

gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

110.09 INFORMATION PROVIDED. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right-of-way, including documents, maps and other information in paper or electronic or other forms (“Information”). The Company and City recognize the Information may in whole or part be considered a confidential record under State or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company’s facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within 10 days.

110.10 EXTENSION OF SYSTEM. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.11 STANDARD OF OPERATION. During the term of the franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company’s tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.12 CITY POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

110.13 FRANCHISE FEE. A franchise fee of 0 percent is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, generated from sales of natural gas and distribution service:

1. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.
2. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City’s documentation of customer classes subject to or exempted from City-imposed franchise fee.
3. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

4. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.14 OTHER FEES. Upon implementation of a franchise fee, the City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge Company right-of-way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

110.15 TERMINATION. Either City or Company ("party") may terminate the franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate the franchise. A party shall not be considered to be in breach of the franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached the franchise if the alleged breach is the result of the actions of a third party or the other party.

110.16 WAIVER. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with the franchise agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted

111.02 Restrictions

111.03 Excavation

111.04 Location of Facilities

111.05 Restoration

111.06 Vacated Property

111.07 Relocation of Facilities

111.08 Indemnification

111.09 Pruning of Trees

111.10 Information Provided

111.11 Standards of Operation

111.12 Franchise Fee

111.13 Other Fees

111.14 Termination

111.15 Waiver

111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation (hereinafter called “Company”), and its successors and assigns, the right and nonexclusive franchise to acquire, construct, erect, maintain and operate in the City a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, rights of way and alleys to serve customers within the City, and to furnish and sell electric energy to the City and its inhabitants. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval. This franchise shall be effective for a 10-year period from and after the effective date of the ordinance codified in this chapter.[†] However, the franchise shall continue for an additional 10 years if neither the City nor Company provides written notice to the other party of its desire to terminate the franchise, within 90 days of the scheduled 10-year expiration date. In the event neither party requests amendments or termination, the franchise will terminate on the twentieth anniversary of the original effective date.

111.02 RESTRICTIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

111.03 EXCAVATION. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures, and accessories as well as to excavate and bury conduits or conductors for the distribution of electric energy and communications signals in and through the City, provided the same shall be placed in accord with the franchise and this Code of Ordinances, regarding the placement of structures, facilities, accessories or other objects in the right-of-way, including ordinances which assign corridors or other placements to users of the right-of-way and requirements which may be adopted regarding separation of structures, facilities, accessories or other objects.

111.04 LOCATION OF FACILITIES. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s Tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”), at its cost and expense,

[†] **EDITOR’S NOTE:** Ordinance No. 312 adopting an electric franchise for the City, was passed and adopted in 2018.

locate and relocate its existing installations located in, on, over or under the right-of-way of any public street, right-of-way or alley in the City in such a manner as the City may require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street right-of-way or alley. If the City has a reasonable alternative route for the street, right-of-way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall, in the extension or modification of streets and roads, make provision for the placement of company service lines and facilities on City-owned right-of-way without charge to Company. In planning for the extension or modification of streets, the City shall, to the extent practicable, design such changes to limit the need for relocation of Company facilities. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If vegetation and tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of vegetation and tree removals does not coincide with Company's facilities relocation schedule and the Company must remove vegetation and trees that are included in the City's portion of the project, the City shall either remove them or reimburse the Company for the expenses incurred to remove said materials. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 RESTORATION. In making excavations in any streets, avenues and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefor and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right-of-way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all provisions and requirements of the City in its regulation of the use of City right-of-way in performing such work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's excavation but shall not be required to improve or modify the public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Company shall complete all repairs in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

111.06 VACATED PROPERTY. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities and their replacements on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities.

111.07 RELOCATION OF FACILITIES. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City in the previous 10 years. Pursuant to relocation of Company facilities, if the City orders or requests the Company to relocate its

existing facilities or equipment in order to directly facilitate a project for the primary benefit of a commercial or private developer or other non-public entity, the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

111.08 INDEMNIFICATION. The Company shall indemnify, save and hold harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

111.09 PRUNING OF TREES. The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations. The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and State law, rules and regulations. The Company is authorized and empowered to prune or remove at Company expense, any tree extending into any street, avenue, right-of-way, alley, public place or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of vegetation and trees shall be completed in accordance with nationally accepted safety and utility standards, NSI Z133.1-2012, American National Standard for Arboricultural Operations-Safety Requirements, and ANSI A300(part 1) - 2008 Pruning, (Revision of ANSI A300 part 1-2001) American National Standard for Tree, Shrub, and other Woody Plant Management - Standard of Practices (Pruning) or subsequent revisions to these standards, and City ordinances regarding the pruning of trees that incorporate by reference that standard.

111.10 INFORMATION PROVIDED. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under State or federal law or both. Therefore, City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by State or federal law on other grounds, and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or other Information provided to the City by the Company shall be made available to the public or other entities if such documents or Information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all costs, including attorney fees and penalties to the extent allowed by law.

111.11 STANDARDS OF OPERATION. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board

or its successors and Iowa law. During the term of the franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

111.12 FRANCHISE FEE. There is hereby imposed upon the customers a franchise fee of 0 percent upon the gross revenues, minus uncollectible accounts, generated from sales of electricity and distribution service, pursuant to the Tariff, by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

1. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.
2. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.
3. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.
4. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

111.13 OTHER FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right of way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111.14 TERMINATION. The franchise shall apply to and bind the City and Company and their successors and assigns. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate the franchise. A party shall not be considered to be in breach of the franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached the franchise if the alleged breach is the result of the actions of a third party or the other party.

111.15 WAIVER. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with the franchise agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

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CHAPTER 112

CABLE TELEVISION FRANCHISE

112.01 Grant of Franchise

112.02 Sale or Assignment

112.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to Triax (hereinafter referred to as the “Grantee”), its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of 25 years, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. To sell and supply audio and video communication service to persons within the City.
2. To use public property within the City without interference or damage to the existing rights of other franchisers and said property.
3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

112.02 SALE OR ASSIGNMENT. The Grantee shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the franchise to a corporation to be formed and controlled by it, without prior consent of the City.

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CHAPTER 113

CABLE TELEVISION REGULATIONS

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113.01 PURPOSE. The purpose of this chapter is to provide regulatory provisions of cable television systems in the City.

113.02 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Company" means any firm granted a cable television franchise in the City.
2. "Federal Communications Commission" or "FCC" means the Federal agency by that name as constituted by the Communications Act of 1934, as amended.
3. "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and origination channels, if any. Gross subscriber revenues shall not include any revenues received:
 - A. As reimbursement of expenses in the operation of any access channels;
 - B. As advertising payments;
 - C. From the leasing of cable channels;
 - D. From programs for which a per-channel, per-program or tier charge is made; and
 - E. From furnishing other communications and non-broadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installations.

4. "System" means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized by this chapter.

113.03 COMPLIANCE REQUIRED GENERALLY. The Company shall, at all times during the life of the regulatory ordinance codified in this chapter, be subject to all lawful exercise of the police power by the City and to such reasonable regulations as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in full compliance with such portions of the *National Electrical Safety Code* as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the City or any other agency of the State or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized in this chapter. The Company will provide a minimum of 6 satellite signals.

113.04 NATIONAL ELECTRIC SAFETY CODE. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements of the *National Electrical Safety Code*, and such applicable ordinances and regulations set forth by the City and/or any local, State or Federal agencies.

113.05 FCC RULES AND REGULATIONS. The Company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC, specifically those set out in Section 76.31 of the FCC Rules and Regulations. This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage therein.

113.06 MODIFICATION OF FCC RULES. Consistent with the requirements of Rule 76.31(a)(6) of the FCC, any modification of Rule 76.31 resulting from amendment thereto by the FCC shall be incorporated in this chapter by specific amendment thereto by lawful action of the Council within one year from the effective date of the FCC's amendment or at the time of renewal of the ordinance codified in this chapter, whichever occurs first.

113.07 TRANSFER. The Company shall not sell or transfer its system to another, or transfer any rights under this chapter to another without written approval by the City; provided, that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the City an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this chapter and agreeing to perform all conditions thereof.

113.08 COMPANY RULES AND REGULATIONS. The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this chapter and to assure uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal and State law.

113.09 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. In furtherance of the Company's execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the City to whatever extent such contract or contracts may be expedient and of advantage to the Company for use of poles and posts necessary for proper installation of the system, the Company may obtain right-of-way permits from appropriate State, County

and Federal officials necessary to cross highways or roads under their respective jurisdictions, to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a City, County, State or Federal agency may require. The Company shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company and restored to serviceable condition.

2. The Company's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with any improvements the City may deem proper to make or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

3. In the event that the City annexes further territory as authorized by the law, the Company shall extend energized trunk cable to the remaining portions of the City so annexed within an acceptable time thereafter, unless additional time is granted by the Council upon request of the Company for good cause shown. Extension of service shall not be one of the requirements as set forth in this section.

4. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights of reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. In the event the electrical and phone lines are buried to the subscriber's residence, the Company shall be required to bury the cable also.

5. In case of any disturbance of pavement, sidewalk, driveway, grass or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, grass, shrubs, trees, fences or surface of any street or alley or other public or private property in as good condition as before said work was commenced.

6. In the event that at any time during the period of the franchise the City lawfully elects to alter or change the grade of any street, alley or other public way, the Company, upon reasonable notice by the City, shall remove, relay or relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

7. The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrants or mains and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with the usual travel on said streets, alleys and public ways.

8. The Company shall, on the request of any person holding a building moving permit issued by the City temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The Company shall be given no less than 48 hours' advance notice to arrange for such temporary wire changes.

9. The Company 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. All tree trimming is to be done under the direction of the City and at the expense of the Company.

10. The Company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the City and to any public or parochial elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

113.10 LINE EXTENSIONS. It shall be the obligation of the Company to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service with the City, the Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of 70 homes per each linear mile of new cable construction. In the event that the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

113.11 CITY RIGHTS. The City has and retains the following rights:

1. **City Rules.** The right is reserved by the City to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the State or the United States.

2. **Use of System by City.** The City shall have the right, during the life of the franchise, of maintaining upon the poles or in the underground conduits of the Company within the City limits wire and fixtures necessary for a traffic control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the City and shall at all times comply with all reasonable rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and the wires and fixtures used by the City.

3. **Emergency or Disaster.** In the case of any emergency or disaster, the Company shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster period.

4. **Liability.** The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties, except for damage caused to the Company's facilities by the negligence of the City's employees. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be liable for the failure of the Company to be able to perform normal services due to acts of God or other factors beyond the control of the City.

5. **No Property Right.** Nothing in this chapter shall grant to the Company any right of property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than or in any fashion other than in the City's judgment, its own business or needs may require.

6. **Construction Approval by City.** Except for individual service drops, the Company shall not erect any pole, install any underground lines or conduits, run any line, make any attachment, nor shall any construction of any kind be commenced

without the prior approval of the director of engineering or appropriate department of the City, which approval shall not be unreasonably withheld, and the City shall have and maintain the right to inspect the construction, operation and maintenance of the system by the Company to insure the proper performance of the terms of this chapter.

7. **Correction of Defects.** In the event the Company should violate any of the terms of this chapter, or any of the rules and regulations as may be from time to time lawfully adopted, the City shall immediately give to the Company 30 days' written notice to correct such violation and in the event the Company does not make such correction within 30 days after the receipt of such written notice, the City may make such correction itself and charge the cost of same to the Company, and the Company shall pay such charges within 30 days after the receipt of a statement for such charge from the City.

113.12 PAYMENTS TO THE CITY. Payments to the City shall be as follows:

1. **Annual Payment.** The Company shall, commencing two years from the date of the first service and during each year of operation under the franchise, pay to the City three percent of the annual gross subscriber revenues received by the Company for regular monthly cable television services rendered to customers located within the City. At the time of this annual payment, the Company shall furnish the City with an operating report showing the company's annual gross subscriber revenues during the preceding year and such other information as the City shall reasonably require with respect to properties and expenses related to the Company's services within the City for such period.
2. **Due.** All payments as required by the Company to the City shall be made semiannually and shall be due 45 days after the close of the six-month period.
3. **Option.** The Company shall be granted the option after the first two years of operation to offer a minimum of one additional satellite service per year in lieu of paying the three percent franchise tax required in this section, for one year. If the Company so elects, it must submit a cost statement as to the offering of the additional satellite service showing the cost to the Company. If more than one community is offered the additional service, the cost must be allocated to each City based on the number of subscribers in that community.

113.13 RATES AND CHARGES. In consideration for services rendered to subscribers, the Company shall have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the Company's need to attract new capital and provide a reasonable return on invested capital.

113.14 RECORD KEEPING. The Company shall keep full, true, accurate and current books of account, which books and records and all other pertinent books, records, maps, plans, financial statements and other like materials, shall be made available for inspection and copying by the City upon reasonable notice and during normal business hours.

113.15 SERVICE PROCEDURES. During the term of the franchise, and any renewal thereof, the Company shall maintain a business office or agent for the purpose of receiving and resolving all questions regarding the quality of service, equipment malfunctions and similar matters. The provisions of this section shall be complied with if the Company maintains an office which may be reached by local, toll-free telephone call and provides the Clerk's office with the name, address and telephone number of a person who will act as the Company's agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. The local office shall be open to receive inquiries or complaints from

subscribers during normal business hours and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within four business days of their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof. This log shall be made available for periodic inspection by the City. The Company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and telephone numbers of the employee or employees or agent to whom such inquiries or complaints are to be addressed.

113.16 PROTECTION OF PRIVACY. The Company shall not permit the transmission of any signal, aural, visual or digital, including “polling” the channel selection, from any subscriber’s premises without first obtaining written permission of the subscriber. This provision is not intended to prohibit the use of transmission signals useful only for the control or measurement of system performance. The Company shall not permit the installation of any special terminal equipment in any subscriber’s premises that will permit transmission from subscriber’s premises of two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the cable television service without payment to the Company for same. Such action shall be a simple misdemeanor.

113.17 PROGRAM CONTENT RESTRICTIONS. In addition to providing basic cable television service consisting of broadcast and automated signals, the Company may offer subscribers optional services on a per-program or per-channel basis. However, the Company shall not display X-rated motion pictures either as part of its basic cable or pay cable services.

113.18 DISCRIMINATION PROHIBITED. The Company shall not refuse to hire or discriminate against any person regarding compensation, terms, conditions or privileges of employment because of sex, age, race, color, creed or national origin. The Company shall take affirmative action to insure that employees are treated, during employment, without regard to their sex, age, race, color, creed or national origin.

113.19 LIABILITY AND INDEMNIFICATION. The Company shall indemnify the City and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The City shall notify the Company’s representative within 15 days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Company. The Company agrees as follows:

1. The Company shall carry Worker’s Compensation insurance with statutory limits and Employers’ Liability insurance with limits of not less than \$100,000.00 which shall cover all operations to be performed by the Company as a result of this chapter.
2. The Company shall carry comprehensive general liability and comprehensive automobile liability insurance with bodily injury limits of not less than \$300,000.00. The City shall be named as an additional insured under said policy. If additional premium is required for naming the City as an additional insured, said premium may be deducted by the Company from its payment under Section 113.12.
3. Company’s Worker’s Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance

company with a capital and/or surplus of not less than \$3,000,000.00 and Company agrees to furnish the City with certified copies or certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless 10 days' prior written notice first be given to the City.

4. The Company shall, within 30 days subsequent to the effective date of the ordinance codified by this chapter, post a performance bond with the City, written by an approved corporate surety in the amount of \$5,000.00 and in a form satisfactory to the City guaranteeing the Company's continued operation of the cable television system within the City and Company shall well and truly observe, fulfill and perform each term and condition of the bond; provided, however, if the Company had posted a bond pursuant to the requirements of the chapter heretofore granted and said bond is in effect when the term of the ordinance codified in this chapter begins and is in a form and amount satisfactory to the City, such bond shall constitute full compliance with the requirements of this section. All damages which may be directly occasioned by the failure of the Company to perform under the chapter, up to the principal amount of the bond, shall be recoverable from the principals and sureties of said bond by the City.

5. If the Company should commit a minor breach of this chapter and not remedy such breach within 60 days after having received written notice from the City to do so, then the City, at its discretion, may declare a portion of the bond equivalent to the amount of damages sustained by the City which are directly attributable to such breach forfeited and Company shall thereupon be required:

A. To remedy the breach within reasonable dispatch; and

B. Within 60 days of such forfeiture replace the forfeited portion of the bond. Notwithstanding the foregoing, nothing contained in this subsection shall serve to absolve the Company of any of its obligations under this chapter or the rules and regulations of the Federal Communications Commission.

6. The Company shall pay all premiums chargeable for the bond and shall keep the same in full force and effect at all times throughout the term of the ordinance codified by this chapter and during removal of all poles, wires, cables, underground conduit, manholes and other conductors, converters, equipment and fixtures subsequent to the termination of the ordinance codified in this chapter. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to 60 days after written notice to that effect is given to the Clerk or similar official of the City.

7. All insurance policies and bonds as are required of the Company in the regulatory ordinance codified in this chapter shall be written by a company or companies authorized and qualified to do business in the State. Certificates of all coverage required shall be promptly filed by the company with the City.

8. Within 60 days after the effective date of the ordinance codified by this chapter, the Company shall file with the Federal Communications Commission such request, petition or other application as is then proper to secure from said Federal Communications Commission and all necessary permits, licenses, waivers or the like as may be necessary to be secured from said Federal Communications Commission to fully comply with the terms of this chapter. The Company shall thereafter diligently pursue such application with the Federal Communications Commission and shall do all reasonable things necessary and proper to secure any such permit, license, waiver, approval or the like from it. The Company shall keep the City advised, from time to time, of the progress of such application.

113.20 ADDITIONAL REGULATIONS. The City reserves the right to adopt, in addition to the provisions contained in this chapter, such additional regulations as it shall find necessary in the exercise of its police power, provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this chapter.

113.21 ACTIVITIES PROHIBITED. The following specific activities are prohibited:

1. The Company, any and all of its officers, agents and employees, are specifically prohibited from engaging in the sale, service, rental or leasing of television receivers or television or radio receiver related parts and accessories with any person anywhere in the City, whether for a fee or charge or not. The Company shall prohibit any of its officers, agents and employees from violating the terms of this section at all times, whether in the performance of duties of the Company or otherwise.
2. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder, in any manner, the operation of the various utilities serving the residents of the City.
3. The Company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

113.22 VIOLATION; PENALTY. Should the Company, its successors or assigns violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant hereto and should such violation continue for more than 30 days after the City has given the Company written notice of such violation, failure or default, the same shall be cause for the forfeiture or revocation of the franchise and the termination of all rights hereunder; provided, however, any delay in correcting such violation which is caused by factors beyond the control of the Company shall not be included in computing the length of the continuance of such violation. In the event of the bankruptcy or receivership of the Company, all rights herein given to the Company shall, at the option of the City, be forfeited and terminated.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required

120.04 Action by Council

120.02 General Prohibition

120.05 Prohibited Sales and Acts

120.03 Investigation

120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the 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 that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 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] & 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.
(Code of Iowa, Sec. 123.49[2c])
4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.
(Code of Iowa, Sec. 123.49[2f])
5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.
(Code of Iowa, Sec. 123.49[2i])
6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49[2a])
7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49[2j])
8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.
(Code of Iowa, Sec. 123.49[2d])
9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.
(Code of Iowa, Sec. 123.49[2e])
10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.
(Code of Iowa, Sec. 123.49[2g])
11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.
(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions

121.02 Permit Required

121.03 Application

121.04 Fees

121.05 Issuance and Expiration

121.06 Refunds

121.07 Persons Under Legal Age

121.08 Self-Service Sales Prohibited

121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 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

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless

good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

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

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of \$2.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

CHAPTER 122 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$10.00 per year.
2. Peddlers or Transient Merchants.
 - A. For one day\$ 5.00
 - B. For one week\$ 25.00
 - C. For up to six months\$100.00
 - D. For one year or major part thereof.....\$175.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

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

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

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

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

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

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Nashua-Plainfield 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.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit 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 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined	123.07 Permit Issued
123.02 Permit Required	123.08 Public Safety
123.03 Application	123.09 Time Limit
123.04 Bond Required	123.10 Removal by City
123.05 Insurance Required	123.11 Protect Pavement
123.06 Permit Fee	123.12 Overhead Wires

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

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than 100 square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. 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 Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

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

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

123.06 PERMIT FEE. A permit fee of \$25.00 shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Property Owner's Responsibility for Maintenance

135.11 Failure to Maintain

135.12 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.
8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the

City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Fee. A permit fee of \$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.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 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.

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice, and Accumulations	136.12 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.13 Openings and Enclosures
136.05 City May Order Repairs	136.14 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.15 Defacing
136.07 Permit Required	136.16 Debris on Sidewalks
136.08 Sidewalk Standards	136.17 Merchandise Display
136.09 Barricades and Warning Lights	136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. It is the responsibility of the abutting property owners for removal of the natural accumulations of snow and ice from the sidewalks promptly once the precipitation has stopped falling and the abutting property owner may be liable for damages caused by the failure of the abutting property owner to use reasonable care in the removal of the snow or ice. If damages are to be awarded under this section against the abutting property owner, the claimant has the burden of proving the amount

of damages. To authorize recovery of more than a nominal amount, *Code of Iowa* Section 361.12(2)(b) must be followed together with all legal and equitable defenses as provided therein. If a property owner does not remove snow, ice or accumulations within 24 hours once the precipitation has stopped, the City may do so and assess costs against the property owner for collection in the same manner as a property tax.

(Code of Iowa, Section 364.12(2)(b))

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length.

- B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
- C. Driveway areas shall be not less than six inches in thickness.
- 6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) 10 inches from the property line, unless the Council establishes a different distance due to special circumstances.
- 7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
- 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
- 9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
- 10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
- 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or

approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.14 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.04 Disposal of Vacated Streets or Alleys

137.02 Notice of Vacation Hearing

137.05 Disposal by Gift Limited

137.03 Findings Required

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.03 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.04 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.05 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])

EDITOR’S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

[illegible]

CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 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.

138.02 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
29	November 2, 1925		

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets

139.04 Official Street Name Map

139.02 Changing Name of Street

139.05 Revision of Street Name Map

139.03 Recording Street Names

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Nashua, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power

140.02 Definition

140.03 Right of Access Limited

140.04 Access Controls Imposed

140.05 Unlawful Use of Controlled Access Facility

140.06 Permitted Access Points

140.07 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. F-76. On the Primary Road System extension improvement, Project No. F-76, Primary Road No. U.S. 218, within the City, described as follows:

Along an alignment approximately one-half mile east of the west corporation line extending from the south corporation line to the north corporation line

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-76, on file in the office of the Clerk.

2. Project No. _____. On the Primary Road System extension improvement, Project No. _____, Primary Road No. Ia. 346, within the City, described as follows:

Along the extension of Highway 346 between Andrews Street and relocated U.S. Highway No. 218

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement on file in the office of the Clerk.

3. Project No. FN-984. On the Primary Road System extension improvement, Project No. FN-984, Primary Road No. 346, within the City, described as follows:

Beginning at Station 12+73.3 equals Station 1012+73.3, a point approximately 333 feet westerly of the centerline of Greeley Street; thence easterly along Sample Street approximately 376.7 feet to Station 1016+50, a point approximately 43.7 feet easterly of the centerline of Greeley Street. Also, beginning 43.7 feet easterly of the centerline of Greeley Street at Station 3+43.7 thence easterly along Sample Street to Station 9+41.1 equals Station 1009+41.1 thence easterly to Station 1013+02.8 (intersection of Sample and Main Street) thence northerly and easterly on Main Street and Greenwood Avenue to Station 1020+10.6 equals Station 20+00 thence easterly on Greenwood Avenue to Station 50+35, the East Corporation Line

regulating access to and from abutting properties along said Primary Road No. Iowa 346 from a point approximately 333 feet westerly of the centerline of Greeley Street (Sta. 12+73.3 equals Sta. 1012+73.3) to the East Corporation Line (Sta. 50+35) all in accordance with the plans for such improvement identified as Project No. FN-984 on file in the office of the City Clerk.

4. Project No. F-76(4). On the Primary Road System extension improvement, Project No. F-76(4), Primary Road Nos. U.S. 218 and Iowa 346, within the City, described as follows:

U.S. 218 from Sta. 2106+35 (South corporate limits) to Sta. 2187+45 (North Corporate Limits). Also, the continuation of Iowa 346 from Sta. 0+00 to Sta. 12+73.3, the present junction of U.S. 218 and Iowa 346

regulating access to and from Sta. 2106+35 to Sta. 2187+45 on U.S. 218 and Sta. 0+00 to Sta. 12+73.3 on Iowa 346 from abutting properties along said U.S. 218 and Iowa 346 all in accordance with the plans for such improvement identified as Project F-76(4) on file in the office of the City Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section, or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line that separates such service road from the controlled access facility property.

140.06 PERMITTED ACCESS POINTS. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

1. Project No. FN-984. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. FN-984 is hereby recorded as follows:

STATION	SIDE OF STREET	WIDTH	PURPOSE
1013+27	North	35 feet	Commercial
1013+90	South	10 feet	Residential
1014+83	North	18 feet	Residential
Station 3+43.7 to Station 9+41.1 equals Station 1009+41.1			
3+76	South		Residential
3+88	North	17 feet	Residential
4+44	North	16 feet	Residential
4+70	North	16 feet	Residential
4+83	South	12 feet	Residential
5+59	North	16 feet	Residential
6+21	North	16 feet	Residential
6+98	North	16 feet	Park
7+88	South		Not in use
8+12	South	14 feet	Residential
9+09	North	16 feet	Park
Station 9+41.1 equals Station 1009+41.1 to Station 1020+10.6 equals Station 20+00			
1009+48	North	12 feet	Residential
1010+11	North	14 feet	Residential
1010+89	South	26 feet	Industrial
1011+47	South	16 feet	Industrial
1011+80	North		Commercial
1012+50	South		Commercial
1012+62	North	14 feet	Commercial
1013+49	West	24 feet	Commercial
1013+60	East	24 feet	Industrial
1014+27	West	34 feet	Commercial
Station 1020+10.6 equals Station 20+00 to Station 50+35			

25+36	Southeast	18 feet	Residential
25+92	Northwest	16 feet	Field Entrance
27+67	South	24 feet	Residential
28+69	South	18 feet	Residential
30+77	North	18 feet	Residential
30+82	South	20 feet	Residential
33+06	South	18 feet	Residential
33+37	South	18 feet	Residential
35+82	South	18 feet	Residential
37+34	South	18 feet	Residential
38+78	South	18 feet	Residential
Part of area from Sta. 40+77 to Sta. 41+56, north side, single drive for commercial use			
40+90	South	18 feet	Residential
41+32	South	18 feet	Residential
42+40	South	18 feet	Residential
43+64	South	18 feet	Residential
43+89	South	18 feet	Residential
45+09	South	18 feet	Residential
47+40	North	34 feet	Fair Grounds
50+25	South	18 feet	Alley

2. Project No. F-76-4. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-76-4 is hereby recorded as follows:

STATION	SIDE OF STREET	WIDTH	PURPOSE
2157+66	West	23 feet	Farm Entrance
2173+32	West	18 feet	Farm Entrance
Project FN-984			
3+56	South	24 feet	Residential
4+63	North	16 feet	Residential
4+75	South	32 feet	Commercial
7+44	North	16 feet	Residential
7+88	North	16 feet	Residential
10+38	South	18 feet	Residential
10+55	South	14 feet	Residential

140.07 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of 35 feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of 35 feet.
3. Diagonal Parking on Minor Street. Where diagonal parking is permitted, on the minor street approach, parking shall be restricted so that a 55 foot stop sign distance is maintained.
4. Intersection. Parking shall be prohibited on the Primary Road Extensions a distance of 55 feet in advance of the near crosswalk and a distance of 22 feet beyond the far crosswalk.
5. Project No. F-76(4). Parking of any nature is prohibited on Project No. F-76(4) in any of the following specifically designated locations:
 - A. U.S. 218, at any place within the City.
 - B. Iowa No. 346, on both sides, from Station 12+73.3 to Station 0+00.
6. Project No. FN-984. Parking of any nature is prohibited on Project No. FN-984 in any of the following specifically designated locations:
 - A. Iowa 346, on both sides, within the City, with the following exception, a single lane of parallel parking will be permitted on Sample Street, on the north side only, from a point approximately 70.2 feet easterly of the centerline of Brasher Street (Sta. 1010+38.7) to a point approximately 68.4 feet westerly of the centerline of Main Street (Sta. 1012+34.4).

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer

145.05 Conduct of Hearing

145.02 General Definition of Unsafe

145.06 Posting of Signs

145.03 Unsafe Building

145.07 Right to Demolish; Municipal Infraction

145.04 Notice to Owner

145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF NASHUA, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work

[†] **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.

shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.03 Foundation Requirements

146.02 Conversion to Real Property

146.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 435.1*)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(*Code of Iowa, Sec. 435.26 & Sec. 435.35*)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as

of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 147

WELL PROTECTION

147.01 Distances

147.03 Exception

147.02 Designation of Wells

147.04 Nonconforming Uses

147.01 DISTANCES. No structure or facility of the enumerated types set out in the following Table A shall be located within the distances set forth in said Table from public wells within the City.

TABLE A: SEPARATION DISTANCES

SOURCE OF CONTAMINATION	REQUIRED MINIMUM DISTANCE FROM WELL, IN FEET	
	Deep Well ¹	Shallow Well ¹
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers and Drains²		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if water main or sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if water main or sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe

Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe

SOURCE OF CONTAMINATION	REQUIRED MINIMUM DISTANCE FROM WELL, IN FEET	
	Deep Well ¹	Shallow Well ¹
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes ³	200	400
Other		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400

Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites ⁴	1,000	1,000

¹ Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

² The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

³ Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

⁴ Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

147.02 DESIGNATION OF WELLS. The City Council shall designate each water well within the City as being a “shallow well” or “deep well” for the purpose of the chapter.

147.03 EXCEPTION. Proscriptions as set forth in Table A apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

147.04 NONCONFORMING USES. The use of structures or facilities existing prior to adoption of Ordinance No. 254 may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to the date of adoption of this Code of Ordinances.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.03 Building Numbering Plan

150.02 Owner Requirements

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Permit Required. No person shall plant, trim, remove, or treat any tree or plant material on the public right-of-way without first obtaining a permit from the City for such work.
2. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
3. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
4. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

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

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

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

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

RESTRICTED RESIDENCE DISTRICT

155.01 Interpretation	155.06 R-1 Restricted Residence District
155.02 Definitions	155.07 Special Permits
155.03 Districts and Boundaries	155.08 Parking
155.04 Building Permit and Certificate of Occupancy Required	155.09 Amendment
155.05 Nonconforming Uses and Lots	155.10 Violation and Penalties

155.01 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control.

155.02 DEFINITIONS. As used herein, the words “used or occupied” also include the words “intended, designed or arranged to be used or occupied.” The following terms and words are also defined for the purposes of this chapter:

1. “Accessory building or use” means a building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use. An accessory building shall be a minimum of five feet away, measured from the eave or overhang, from other buildings or structures.
2. “Building Official” means the City Clerk, who shall be responsible for the administration and enforcement of this chapter.
3. “Church” or “church school” means a building used for public worship or connected with a building so used or for instruction in religious beliefs or for the conduct of activities related to church affairs.
4. “Dwelling” or “residence” means any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin or trailer.
5. “Dwelling, condominium” means a multiple dwelling as defined in this section whereby the fee title to each dwelling unit is held independently of the others.
6. “Dwelling, multiple” means a residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.
7. “Dwelling, row” means any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
8. “Dwelling, single-family” means a detached residence designed for or used exclusively and occupied by one family only.
9. “Dwelling, two-family” means a residence designed for or used exclusively and occupied by two families only, with separate housekeeping and cooking facilities for each.

10. "Dwelling unit" means a room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family, containing bathroom and/or kitchen facilities.
11. "Family" means one or more persons occupying a single dwelling unit, provided that all members are related by blood, marriage or adoption.
12. "Garage" means a structure for sheltering motor vehicles or household equipment and/or effects.
13. "Home occupation" means an occupation or profession conducted entirely within an enclosed dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
14. "Home industry" means an occupation or profession conducted entirely within an enclosed accessory building that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
15. "Household" means a group of persons living together in a single dwelling unit with common access to and common use of all living and eating areas within the dwelling unit.
16. "Lot" means, for the purpose of this chapter, a parcel of land of at least sufficient size to meet minimum requirements for use, coverage and area and to provide such yards and other open space as are required in this chapter. The lot shall have frontage on a public street or private street, and may consist of: (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (iv) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.
17. "Lot, corner" means a lot abutting upon two or more streets at their intersection.
18. "Lot, depth of" means the horizontal distance between the front and rear lot lines.
19. "Lot, double frontage" means a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
20. "Lot, interior" means a lot other than a corner lot.
21. "Lot lines" means the lines bounding a lot.
22. "Lot of record" means a lot which is a part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
23. "Lot, reversed frontage" means a corner lot, the side street line of which is substantially a continuation of the front line of the first platted lot to its rear.
24. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.
25. "School" means a public or private building used for educational purposes that is regulated by the State Department of Public Instruction as to curriculum.

26. “Stable, private” means a building or structure used or intended to be used for housing horses belonging to the owner of the property for noncommercial purposes.
27. “Stable, public” or “riding academy” means a building or structure used or intended to be used for the housing or riding of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.
28. “Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.
29. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building. “Front” shall be determined from the street where the address is derived.
30. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots, the rear yard is the opposite end of lot from the front yard.
31. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

155.03 DISTRICTS AND BOUNDARIES. The official restricted residence district map is on file with the Clerk and is made a part of this chapter. The map delineates various areas of the City into the following classifications:

1. R-1 – Restricted Residence District
2. N-R – Nonresidential District

For the purpose of this chapter, all restrictions in this chapter are applicable in the R-1 Restricted Residence District. All district boundary lines shown on the official map correspond with property lines or street lines or centerlines of right-of-way. In the case of a district boundary line which divides a property of single ownership, the Council may make such boundary line adjustments as to place the lot of single ownership in or out of the restricted residence district. All land that is hereafter annexed to the City shall be automatically classified as being in an R-1 Restricted Residence District until such classification is changed by amendment to this chapter, as provided herein.

155.04 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY REQUIRED.

1. No building footprint, area or size shall hereafter be altered or improved in valuation of \$500.00 or more, unless a building permit provided by the Building Official, considered by the Council and signed by the Mayor has been approved for each erection, reconstruction or alteration. Said permit shall be applied for in writing on a properly completed application form, provided by the Building Official, that is accompanied by plans and specifications sufficient to determine compliance with the applicable ordinances of the City. Any concrete or cement improvements, regardless of

the valuation of the project, shall be subject to the permit process defined in this subsection.

2. A building permit shall not be issued for buildings that do not comply with this or any other ordinance of the City. The Building Official may revoke a permit or approval, issued under the provisions of this chapter, if a false statement or misrepresentation was made by the applicant on the application or plans on which permit approval was based.
3. If construction, as covered by the building permit, is not initiated within one year from the date of permit issuance, said permit shall be void.
4. A fee of \$25.00 or (\$50.00 if the work began prior to the application) shall accompany the application for building permits, and a fee of \$100.00 shall accompany the application for all flood plain development permits/applications as defined by Chapter 160 of this Code of Ordinances.
5. No change in the use or occupancy of land or any change in use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose or use until a certificate of occupancy has been issued by the Building Official. If the new occupancy complies with the provisions of this chapter and all other provisions of this Code of Ordinances, the Building Official shall issue said certificate. A certificate of occupancy shall not be issued for uses that do not comply with this chapter or any other provisions of this Code of Ordinances. There shall be no fee for a certificate of occupancy.
6. Nothing in this section shall be construed as approving of demolition or renovation of commercial properties or a residential facility containing four or more dwelling units which are covered by federal and State law and are the subject of Chapter 156 of this Code of Ordinances.

155.05 NONCONFORMING USES AND LOTS.

1. A lawful, or authorized, nonconforming use existing at the time of adoption of the ordinance codified in this chapter may be continued, maintained, repaired, or sold to another party. Said nonconforming use may not be enlarged, expanded or changed, nor shall it occupy more lot area than was in use on the effective date of such ordinance unless the official restricted residence ordinance map is amended or a special permit is granted.
2. If said lawful nonconforming use, or any portion thereof, is discontinued, either voluntarily by the owner or through the sale of the property or business, for a period of one (1) year or more, any future use of such land shall be in conformity with the provisions of the R-1 Restricted Residence District unless the official restricted residence ordinance map is amended or a special permit is granted.
3. In any Restricted Residence District on a lot of record at the time of enactment of this chapter, a single-family dwelling may be established regardless of the size or dimension of the lot, provided all other requirements of this chapter are met. However, where two (2) or more vacant and contiguous substandard recorded lots held in common ownership, they shall be combined and shall thereafter be maintained in common ownership and shall be so joined and developed for implementing this chapter. The razing of a building on a substandard lot shall constitute the formation of a vacant lot.

155.06 R-1 RESTRICTED RESIDENCE DISTRICT. The following regulations shall apply in all areas designated in the R-1 Restricted Residence District.

1. Principal Permitted Uses. (Only one principal permitted use shall be allowed per lot, including lots of record).
 - A. One and two family dwellings or residences.
 - B. Churches, cathedrals, temples, and similar places of worship.
 - C. Public and parochial schools, including elementary and secondary schools.
 - D. Fire stations.
 - E. Publicly owned parks, playgrounds, golf courses, libraries, and recreation areas.
 - F. Agricultural uses, including nurseries and truck gardens; provided that no offensive odors or dust are created, and provided further, that no retail sales shall be permitted on the premises. This shall not be construed to include the operation of livestock feed lots or auctions, public stables, boarding kennels or veterinary clinics or such similar uses.
 - G. Conversions of one family dwellings into two family dwellings in accordance with the lot area, frontage, height, and yard requirements of this section.
 - H. Mobile Home Parks or Trailer Parks may be established provided approval is granted by the City Council after a public hearing has been held pursuant to the establishment of such use. Each mobile home park shall provide a minimum of 3,000 square feet per mobile home unit, and maintain front, side and rear yard areas around said park of at least 30 feet. Each mobile home within said park must maintain at least 20 feet of front, side and rear yard from all other adjacent mobile homes.
 - I. Multiple dwellings, including row dwellings consisting of not more than six units in a continuous row, cooperative apartment house, and condominium dwellings.
 - J. Boarding and rooming houses.
 - K. Nursing, convalescent and retirement homes.
 - L. Funeral homes.
 - M. Uses other than those permitted in this section may be erected, reconstructed, altered, or placed provided the City Council shall have approved, by special permit, the said erection, reconstruction, alteration, or placement of the use.
2. Permitted Accessory Uses.
 - A. Customary home occupation as a secondary use carried on entirely within the residence not including any garage or other building or structure not designed and used for daily, human habitation and where there is no evidence of such occupation being conducted on the premises by virtue of signs, or displays, or excessive noise, odors, electrical disturbances, or traffic generation, except one sign not larger than two square feet in area, with no more than one nonresident assistant and where not more than one-half of the floor area of any one floor is devoted to such use.

- B. A residential accessory building or structure customarily used in conjunction with a dwelling, namely, a garage, a tool or “summer” house, or a private swimming pool properly fenced and screened. Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, or if it is used in conjunction with or for the business of selling goods or rendering services.
- 3. Lot and Building Regulations. (Minimum requirements)
 - A. Lot Area:
 - One-family dwelling – 8,000 square feet
 - Two-family dwelling – 8,000 square feet
 - Multiple-family or other permitted use – 10,000 square feet
 - B. Lot area per dwelling unit; row housing and multiple dwellings – 2,500 square feet each for the first four units, plus 850 square feet per additional unit.
 - C. Lot width:
 - One family dwelling – 66 feet.
 - Two family dwelling – 66 feet.
 - Row housing units – 25 feet per unit.
 - Multiple family dwelling and other permitted uses – 75 feet
 - D. Front yard: Twenty foot setback – any lot which abuts on two or more streets shall have a 15 foot side yard between each lot line abutting on said side street and any building. On lots of record, the average setback of adjacent dwellings may be used. Schools and churches are exempt from front yard setback requirements.
 - E. Side yards: Six foot setback for all principally permitted uses. Accessory Building – unattached in rear yard a minimum setback distance of five feet from the principal building; may be within three feet of side yard lines.
 - F. Rear yard: Ten foot setback for all principally permitted uses. Accessory Building – unattached in rear yard a minimum setback distance of five feet from the principal building; may be within three feet of rear yard lines.
 - G. Maximum height: Principal building – 45 feet except that for each one foot that the building or a portion of it is set back beyond the required front, side, and rear yards, one foot may be added to the height limit of such building or portion thereof, provided, however, that no building shall exceed a height of 75 feet. Accessory building – 20 feet.
 - H. Maximum number of stories:
 - Principal building – 4 stories.
 - Accessory building – 1½ stories.
 - I. Maximum rear yard coverage for an accessory building(s): 40 percent.
 - J. Minimum size of principal structure: Within a restricted residential district no principal structure shall have a width or length less than 22 feet.

155.07 SPECIAL PERMITS. Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the Restricted Residence District only if it appears that said use and type of building will be compatible with the residential character of the district, and that the particular use could not practicably be built in an unrestricted area, or the restricted district boundaries amended logically, due to topography, access to railroad or highway or other proper reason acceptable to Council. With the exception of the principal and accessory uses stated in this chapter, a written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of the City. Said permit shall be applied for in writing on a properly completed application form provided by the Building Official that is accompanied by plans and specifications sufficient to determine compliance with applicable ordinances of the City. Said application shall be made to the Building Official at least 21 days before the Council meeting at which the request for Council action is made. No permit shall or will be granted until a public hearing has been conducted by the Council at a regularly scheduled meeting. Notice of the public hearing shall be placed in a publication of general circulation at least seven days, but not more than 20 days, prior to the hearing. As a courtesy and in addition to publication, the notice of hearing shall be provided to property owners within 300 feet of the property in question. Notice to property owners shall be mailed at least seven days, but not more than 20 days, prior to hearing. The applicant shall be responsible to provide a list of the names and addresses of the property owners, who are to receive said courtesy notice, together with addressed envelopes with pre-paid first class postage thereon to the Building Official who shall then mail the notices to the property owners. After a public hearing is conducted, but prior to consideration of a special permit, the Council shall weigh the application using the following special permit standards. The City Council shall find that:

1. The establishment, maintenance, or operation of the special permit will not be detrimental to, or endanger, the public health, safety, or general welfare of the City.
2. The special permit will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish or impair property values of the neighborhood.
3. The establishment of special permits will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities and public services (e.g. police and fire protection, sewer and water service), access roads, drainage and/or necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The special permit shall, in all other respects, conform to the applicable regulations and ordinances of the City.
7. A properly noticed public hearing, as outlined herein, was conducted by the Council prior to special permit consideration.

After a public hearing is conducted and consideration has been given to the above standards, the Council shall act on the special permit application. The Council may either approve, deny or table a special permit application by simple majority roll call vote unless 60 percent of the surrounding property owners who received notice object to the special permit application, in which case the Council shall be bound by different voting requirements in that granting a special permit shall then require an affirmative three-fourths vote of all the members of the

Council. Each special permit application shall be accompanied by a check payable to the City or a cash payment in the amount of \$50.00 or \$100.00 if work began prior to approval to cover processing costs.

155.08 PARKING. There shall be a minimum of two off-street parking spaces per dwelling unit required in the Restricted Residence District. This provision shall also apply to all mobile homes.

155.09 AMENDMENTS. From time to time the Council may wish to amend, change, or alter provisions of this chapter and/or the Official Map, which is a part of this chapter. Such amendments, changes, or alterations are hereby allowed, provided that prior to such amendment a public hearing is held, at which time all parties involved in such an amendment including those in adjacent properties may be heard. Notice of the public hearing pertaining to amendments, changes, or alterations of this chapter shall be made in accordance with the Special Permit procedures for conducting such hearings, as defined herein. Upon adoption, publication, and recordation by the Council, such amendments, changes, or alterations shall become effective.

155.10 VIOLATION AND PENALTIES. Any building or structure erected, altered, repaired or used in violation of this chapter shall be deemed a nuisance, and the Council may provide for the abatement of such nuisance through the procedures outlined in Chapter 50 of this Code of Ordinances.

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CHAPTER 156

RENOVATION OR DEMOLITION OF COMMERCIAL BUILDINGS

156.01 Purpose

156.04 Fee

156.02 Permit Required

156.05 Notice

156.03 Inspection Required

156.06 Violation and Penalties

156.01 PURPOSE. This chapter applies to all commercial buildings and residential structures containing four or more living units. The term commercial buildings includes, by common meaning, all places of business as well as municipal/government buildings. The purpose of this chapter is to insure that no building or renovation takes place without an appropriate permit and permission to do same as required by federal and State law. This chapter does not cover flood plain management, which is covered in Chapter 160 of this Code of Ordinances. This ordinance does not cover residential building and renovation which Chapter 155 covers. This ordinance only covers renovation or demolition of a commercial structure or residential structure obtaining four or more units.

156.02 PERMIT REQUIRED. Any individual or contractor must apply for an appropriate permit prior to renovation or demolition of a commercial building or residential structure containing four or more living units. The City Clerk shall provide a commercial building renovation/demolition permit for this purpose. The permit shall be returned, once completed, to the Clerk for approval by the Council by vote. No renovation or demolition is allowed within this City without an approved permit. Failure to apply for permission for demolition or renovation of a commercial building or residential building containing four or more units results in a fine or penalty for violation of this municipal ordinance as well as sanctions available both under State and federal law.

156.03 INSPECTION REQUIRED. As part of the permitting process, a certified inspection for hazardous materials, including but not limited to, asbestos, waste, environmental hazards and storage tanks, will be made by a licensed inspector at the cost of the applicant and attached to each permit prior to approval by the Council.

156.04 FEE. The fee required for such commercial permit shall be \$15.00.

156.05 NOTICE. Federal and State law require special notice requirements, prior to any demolition or renovation being commenced where hazardous material is present. Nothing in this chapter excuses the applicant or permittee from compliance with these notice requirements.

156.06 VIOLATION AND PENALTIES. Any building or structure erected, altered, repaired or used in violation of this chapter shall be deemed a nuisance, and the Council may provide for the abatement of such nuisance through the procedures outlined in Chapter 50 of this Code of Ordinances and or criminal or civil enforcement outlined in Chapter 3 of this Code of Ordinances.

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Purpose	160.13 Action on Application
160.02 Definitions	160.14 Construction and Use to Be as Provided in
160.03 Lands to Which Chapter Applies	Application and Plans
160.04 Compliance	160.15 Variances
160.05 Abrogation and Greater Restrictions	160.16 Factors Upon Which the Decision to Grant
160.06 Interpretation	Variances
160.07 Warning and Disclaimer of Liability	Shall be Based
160.08 General Flood Plain Management Standards	160.17 Conditions Attached to Variances
160.09 Special Floodway Standards	160.18 Nonconforming Uses
160.10 Administration	160.19 Amendments
160.11 Flood Plain Development Permit Required	160.20 Statutory Authority
160.12 Application for Permit	160.21 Severability
	160.22 Penalties for Violation

160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Restrict Use. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. Vulnerable Uses Protected. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Appurtenant structure" means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. "Base flood" means the flood having one percent chance of being equaled or exceeded in any given year. (See "100-year flood.")
3. "Base flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. (Also see “lowest floor.”)
5. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
6. “Existing construction” means any structure for which the start of construction commenced before the effective date of the community’s Flood Insurance Rate Map, and may also be referred to as “existing structure.”
7. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
8. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
9. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
10. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
11. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
12. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
13. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
14. “Flood insurance study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
15. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
16. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use

of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

17. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.
18. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
19. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
20. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
21. “Historic structure” means any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either: (i) an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
22. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.08(4)(A); and
 - B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and
 - D. The enclosed area is not a basement as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

23. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
24. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.
25. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.
26. "100-year flood" means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.
27. "Recreational vehicle" means a vehicle which is:
 - A. Built on a single chassis;
 - B. 400 square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
28. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
 - A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - C. Basement sealing.
 - D. Repairing or replacing damaged or broken window panes.
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
29. "Special flood hazard area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
30. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means

either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

31. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
32. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
33. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:
 - A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of a historic structure, provided the alteration will not preclude the structure’s designation as a historic structure.
 - B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.
34. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.
35. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Chickasaw County and Incorporated Areas, City of Nashua, Panels 19037C0258D, 0259C, 0266D, 0267D, dated September 28, 2012, which were prepared as part of the Chickasaw County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect

to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Flood Insurance Study for the County of Chickasaw County is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

160.04 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.05 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.06 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.07 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.08 GENERAL FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the 100-year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development. All development within the areas of significant flood hazard shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet

beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.
4. All New and Substantially Improved Structures:
 - A. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

 - B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-Built Homes.

- A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the 100-year flood level.
 - B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems.
- A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.
 - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.
 - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
8. Flood Control Structures. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this

chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard.

11. Accessory Structures to Residential Uses.
 - A. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
 - (1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.
 - (2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
 - (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - (4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
 - (5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
 - (6) The structure's walls shall include openings that satisfy the provisions of subsection 4(A) of this section.
 - B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
12. Recreational Vehicles.
 - A. Recreational vehicles are exempt from the requirements of Section 160.08(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
 - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
 - B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.08(5) of this chapter regarding anchoring and elevation of factory-built homes.
13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.09 SPECIAL FLOODWAY STANDARDS. In addition to the general flood plain standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the flood insurance study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
2. All uses within the floodway shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general flood plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.10 ADMINISTRATION. The Clerk shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to the North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures.
4. Record and maintain a record of the elevation (in relation to the North American Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

160.11 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.12 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work to Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.13 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.15 VARIANCES. The Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
3. Required to Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notice to Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.
5. Approval. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

160.17 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.16, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

160.18 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This

limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.19 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

160.20 STATUTORY AUTHORITY. The Legislature of the State of Iowa has in Chapter 414, *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

160.21 SEVERABILITY. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.22 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

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CHAPTER 165

SUBDIVISION REGULATIONS

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165.01 PURPOSE. The purpose of this chapter is to provide procedures and guidance for the review and consideration of subdivisions, resubdivision, or dedications in the incorporated areas of the City as well as a formal review procedure for subdivisions proposed in the unincorporated area in the two mile area around the corporate limits of the City; implementing the Comprehensive Plan; prescribing minimum standards for the design layout and development of subdivisions; providing for the preliminary and final approval or disapproval; providing for the enforcement and penalties for the violation of this chapter; all for the purpose of promoting adequacy, safety and efficiency of the street and road system, and for the purpose of improving the health, safety, and general welfare of the citizens; and repealing all other ordinances or resolutions in conflict herewith. This chapter is permitted and specifically authorized in Chapter 354, Platting - Division and Subdivision of Land, *Code of Iowa*, as amended.

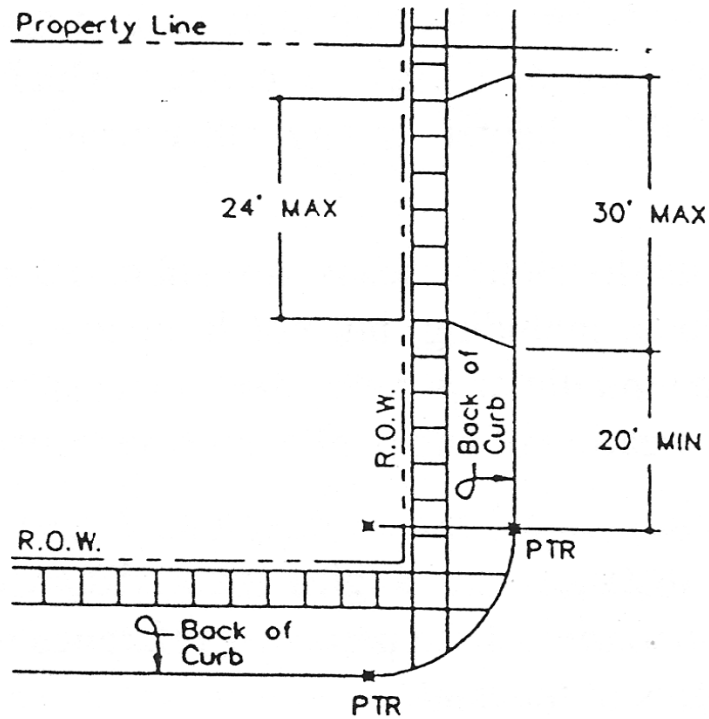
165.02 DEFINITIONS. For the purpose of this chapter, certain words and terms are hereby defined. The following terms are intended to be consistent with Chapter 354 of the *Code of Iowa*, as amended, and any changes to the Code shall automatically be assumed to be part of this chapter.

1. “Acquisition plat” means the graphical representation of the division of land or rights in land, created as a result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. “Aliquot part” means a fractional part of a section within the United States public land survey system. Only the fraction parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
3. “Alley” or “lane” means a public or private way not more than 20 feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.
4. “Auditor’s plat” means a subdivision plat required by either the County Auditor or the County Assessor prepared by a surveyor under the direction of the County Auditor.

5. “Block” means an area of land within a subdivision that is entirely bounded by streets, highways, or the exterior boundary or boundaries of the subdivision, except alleys.
6. “Building lines” shall be shown on all lots whether intended for residential, commercial, or industrial use. Such building lines shall not be less than required by Chapter 155 of this Code of Ordinances.
7. “Building Official” means the administrative officer designated or appointed by the Council to administer and enforce the regulations contained in this chapter.
8. “Conveyance” means an instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.
9. “Cul-de-sac” means a street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
10. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
11. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purposes of this chapter.
12. “Driveway” means a private property access to either a private or public street, road, alley, highway, or freeway. A typical driveway is shown in Figure 1.

Figure 1: Typical Driveway[†]

[†] Or current standard available in the Clerk’s office



13. "Easement" means a grant, by the proprietor, for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the proprietor shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easements which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.
14. "Engineer" means a registered civil engineer authorized and licensed to practice engineering in the State of Iowa.

15. “Final plat” means the final map or plan of record of a subdivision and any accompanying material, as described in Section 165.08 of this chapter.
16. “Improvements” means addition of any facility or construction on land necessary to prepare land for building sites including road paving, drainageways, sewers, water mains, wells, and other works and appurtenances.
17. “Lot” means a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Said lot shall have frontage on or access to a public street or private street and may consist of. (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; or (iv) a parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter or any other provisions of this Code of Ordinances.
18. “Major subdivision” means all subdivisions not classified as minor subdivisions, including, but not limited to, any size subdivision requiring any new public or private street, extension of local government facilities, or the creation of any public improvements.
19. “Metes and bounds” means the method used to describe a tract of land that uses distance and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to survey monuments or physical features of the land.
20. “Minor plat” means a plat replacing a preliminary and final subdivision plat in the case of minor subdivisions to enable the proprietor to save time and expense in reaching a general agreement as to the form of the plat and the objectives of Section 165.09 of this chapter.
21. “Minor subdivision” means any subdivision that creates not more than three parcels fronting an existing road, not involving any new road or street or the extension of municipal facilities or the creation of any public improvements or the dedication of lands to the City, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision of the Comprehensive Plan, Chapter 155 of this Code of Ordinances, or this chapter may be classified as a minor subdivision and must meet the appropriate provisions of this chapter.
22. “Nonresidential subdivision” means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of this chapter.
23. “Official plat” means either an Auditor’s Plat or a major or minor subdivision plat that meets the requirements of the Code of Iowa and has been filed for record in the offices of the County Recorder, County Auditor, and County Assessor.
24. “Outlot” means a portion of a subdivision or other parcel or tract intended as a unit for the proposed, whether immediate or future, transfer of ownership. An outlot shall be an unbuildable lot, in and of itself. Typically a proprietor may use an outlot for the following reasons: (i) to reserve a portion of a final plat for future development or sale; (ii) to reserve a portion of a final plat for construction of and future dedication of a detention basin to the City or

private association; or (iii) for construction of a private street or access that will be owned and maintained by a private association.

25. "Parcel" means a part of a tract of land.
26. "Permanent real estate index number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.
27. "Plat of survey" means the geographical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
28. "Preliminary plat" means the proposed map or plan of record of a subdivision and any accompanying material, as described in Section 165.07.
29. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest. This definition also includes a person or persons designated to act on behalf of a proprietor.
30. "Resubdivision" means a change on a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use or at any lot line, or if such a change affects any map or plan legally recorded prior to the effective date of the ordinance codified in this chapter.
31. "Right-of-way" means the land area the right to possession of which is secured or reserved by the contracting authority for road purposes.
32. "Street line" means a dividing line between a lot, tract or parcel of land and a contiguous street.
33. "Street, road, drive, alleys, or entrance (private)" means all property intended for use by vehicular traffic, but not dedicated to the public, or controlled and maintained by a political subdivision.
34. "Street, road, alleys, drive or entrance (public system)" means all property intended for use by vehicular traffic which has been dedicated to the public or deeded to a political subdivision.
35. "Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcel, sites, units, plots, or interests for the purpose of sale, including a sale on contract or the making of a gift, or lease, or development, including resubdivision. "Subdivision" includes the division or development of residential or nonresidential zoned land, whether by deed, sale on contract, devise, intestate succession, lease, map, plat, or other recorded instrument.
36. "Surveyor" means a registered land surveyor authorized and licensed to practice surveying in the State of Iowa, pursuant to Chapters 355 and 542B of the *Code of Iowa*.
37. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

165.03 GENERAL PROVISIONS.

1. Application. This chapter applies to all plats, replats, and divisions of land into parcels lying in the incorporated area of the City, as well as the subdivision of land within two miles of the City's corporate boundaries. The

provisions of this chapter apply to the division of any lot or parcel of land entered of record in the office of the County Recorder as a single lot or parcel after the effective date of the ordinance codified in this chapter.

2. **Plats Within Two Miles of the City.** In accordance with the provisions of Section 354.9 of the *Code of Iowa*, as amended, a proprietor or other agent shall file a copy of all preliminary and final subdivision plats, including minor plats, for the unincorporated area within two miles of the City. The City may review and comment on the proposed subdivision. The City may either approve, disapprove, or waive the right to review all plats within the extraterritorial area defined herein. The plat(s) shall be filed with the City prior to or at the same time as filing with the County. Approval by one political entity does not automatically constitute approval by the others unless the political entities have so agreed.
3. **Subdivision Classification.** Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision by the Building Official. To aid in this, the proprietor shall submit in written or other appropriate documentation the principal features of access, relationship, and location of existing roads, proposed water and sanitary sewer systems, public utilities and improvements, the number and location of the proposed lots and other pertinent data or information. Any subdivision may be classified as a major subdivision at the proprietor's request.
4. **Zoning.** Any property proposed for subdivision shall be correctly zoned, pursuant to Chapter 155 of this Code of Ordinances, to accommodate the proposed use(s) before the subdivision process is begun.
5. **Review by Agencies.** All plats shall be submitted to the Building Official for review prior to recording. The Building Official shall refer one copy of each to the: Council, City Engineer and Building Official. Each of the aforementioned offices shall examine the plat as to its compliance with Chapter 155 of this Code of Ordinances and regulations of the City, as well as Chickasaw County and the State of Iowa, and submit their findings to the Building Official as soon as is possible but within either 10 days of receipt of the copy or at the next regularly scheduled Council meeting, whichever is greater.

165.04 DESIGN STANDARDS – GENERAL REQUIREMENTS. The standards and details of design herein contained are intended only as the minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the plat, the proprietor should use standards consistent with the site conditions so as to assure an economical, pleasant and desirable neighborhood, and shall conform with design standards as approved by the Council. No land shall be subdivided for residential purposes that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other features likely to be harmful to the health, safety or general welfare unless such suitable conditions are corrected to the satisfaction of the City.

1. If a subdivision is found to be unsuitable for any of the reasons cited in this section the Council shall state its reasons in writing and afford the proprietor an opportunity to present data regarding such unsuitability. Thereafter, the Council may re-affirm, modify or withdraw its determination of unsuitability.

2. All lots located within a floodplain shall contain adequate area above the elevation of flooding for essential and planned installations. All land in a subdivision that lies in a floodplain shall be:
 - A. Shown on the individual lots in the preliminary plat, and
 - B. Encouraged to remain as open space for use by all proprietors of lots in the subdivision with an appropriate instrument providing for its care by such proprietors.
3. Subdivisions (including mobile home parks) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards.

165.05 DESIGN STANDARDS FOR STREETS, BLOCKS AND LOTS.

1. Private Streets. Private streets, not dedicated to and accepted by the City, proposed after the effective date of the ordinance codified in this chapter, are discouraged. If existing private streets are utilized they shall be built to public standards, and they shall be platted as such and be under the control of the subdivision, homeowners association, and/or proprietor.
2. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width, but not less than a 60 foot right-of-way width, and in similar alignment, unless variations are approved by the Council.
3. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Council. In a case where a street will eventually be extended beyond the plan, but is temporarily dead-ended, an interim turnaround shall be required.
4. Street Intersection. Street intersections shall be as near to right angles (90°) as possible. There shall be a minimum street offset of 150 feet between centerlines of intersecting streets.
5. Culs-de-sac. Culs-de-sac are discouraged; however, if a cul-de-sac is permitted, the following standards shall apply. The cul-de-sac shall not be longer than 660 feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least 100 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be a minimum of 60 feet. The property line at the intersection of the turnaround and the lead-in portion of the street shall be rounded at the radius of not less than 30 feet. A paved cul-de-sac with concrete curb and gutter shall have a minimum paved diameter of 80 feet measured from the back of the curb to back of curb.
6. Street Names. All newly platted streets shall be named in a manner consistent with the present street name system. A proposed street that is obviously in alignment with other existing streets, or with a street that may be logically extended through the various portions shall bear the same name. New street names shall be subject to the approval of the Council so as to avoid duplication or similarity of names.

7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded area, and other natural features.
8. Half Streets. Dedication of half streets will be prohibited unless there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if required by the Council.
9. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.
10. Easements.
 - A. Permanent structures, including landscaping and fencing, are not allowed to be constructed on an easement.
 - B. Easements for utilities, when necessary, shall be provided along rear or side lot lines or along alleys. The width of such easement shall be not less than 10 feet in total width. In the event that there exists an easement in an adjacent subdivision, the 10 foot requirement may be reduced to five feet to allow for a minimum of 10 foot total easement.
 - C. Whenever subdivision is traversed by a water course, channel, drainageway, stream, sanitary sewer, or storm water drainage structure, a storm water easement or drainage easement may be required. The width of such easement shall be adequate for the anticipated drainage but not less than 20 feet and shall be shown on the plat.
 - D. Any lot that has no frontage upon a public or private street shall be provided with an easement for access to a public or private street. The width of such easement shall not be less than 20 feet.
 - E. Easements to the City for street purposes shall not be allowed.
11. Neighborhood Plan. If any overall plan has been approved by the City for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.
12. Unsubdivided Portion of Plat. Where the plat to be submitted includes only part of the tract owned by the proprietor, the Council may require a sketch of the prospective future system of the unsubmitted part. The street system of the part submitted shall be correlated with the street system of the part not submitted.
13. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, limited accessway, freeway, or parkway, the street layout shall provide motor access to such frontage by one of the following means:
 - A. Be so arranged as to permit, where necessary, future grade separations at highway crossings.
 - B. Border the highway with a parallel street at a sufficient distance from it to permit deep lots to go back onto the highway; or form a buffer strip for park, commercial, or industrial use.

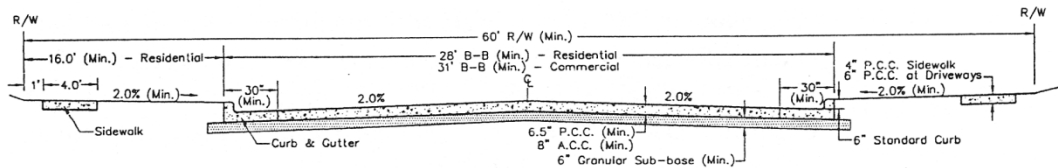
14. Street Right-of-way Width. The width of a minor or residential street right-of-way shall not be less than 60 feet.
15. Street Alignments. Streets and alleys shall be completed to grades which have been officially determined or approved by the Council. All streets shall be graded to within two feet of the right-of-way and adjacent sides slopes graded to blend with the natural ground level. The maximum grade shall not exceed seven percent for main and secondary thoroughfares, or eight percent for minor or local service streets. A minimum centerline radius of 150 feet shall be required of all streets. All street alignments, both horizontally and vertically, shall meet design criteria as specified in the current American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets.
16. Blocks.
 - A. No block shall be longer than 660 feet.
 - B. At street intersections, block corners shall be rounded with a radius of not less than 25 feet. However, where a curve radius has been previously established, such radius shall be used as standard if greater than 25 feet.
17. Lots.
 - A. Corner lots shall have a minimum width that will permit required building setbacks on both front and side streets.
 - B. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway.
 - C. Minimum lot sizes and dimensions, as defined in Chapter 155 of this Code of Ordinances, shall be met.
 - D. Side lot lines shall be approximately at right angles (90°) to the street or radial to curved streets. On large size lots and except when indicated by topography, lot lines shall be straight.
 - E. All out-lots shall be noted as unbuildable on plats.

165.06 IMPROVEMENTS.

1. Streets and Roads. In addition to the requirements contained in Section 165.05, all streets or roads intended to be dedicated to public use and accepted into the City street system shall meet the following criteria:
 - A. All streets shall be built to grade and standard cross-section according to the plans approved by the City Engineer and Council prior to construction. An urban type cross-section (see Figure 2) shall be used. Both plan and profile view details shall be drawn on maximum 24-inch by 36-inch sheets to a maximum scale of one inch equals 50 feet horizontal and one inch equals five feet vertical. If feasible, 11-inch by 17-inch plans drawn to a scale of one inch equals 50 feet horizontal and one inch equals five feet vertical shall be acceptable.
 - B. All streets shall be paved and have Portland Cement Concrete (PCC) curb and gutter. The minimum width of a residential street shall be 28 feet measured from the back of curb to back of curb, and the minimum width of a commercial street shall be 31 feet measured from the back of curb to back of curb (see Figure 2).

- C. All streets shall be paved with one of the following in accordance with specifications approved by the Council and City Engineer:
- (1) Portland Cement Concrete (PCC) paving with a minimum six and one-half-inch thickness with a two percent crown measured from the centerline of the street to the gutter. The sub-base course shall be six inches of granular material.
 - (2) Asphalt Cement Concrete (ACC) paving with a minimum eight-inch thickness, as follows, with a two percent crown measured from the centerline of the street to the gutter. The sub-base course shall be six inches of granular material.
 - (3) A variance to these specifications may be granted by the City, upon receiving from an engineer approved by the City, written certification that said standards are unnecessary for the designated area. All expenses incurred in obtaining said variance are the obligation of the subdivision owner.
- D. All construction and materials shall conform to the current Iowa Department of Transportation standard specifications and special provisions.
- E. Forty-eight (48) hours' advance notice of construction is required.
- F. All designs, specifications, material, inspection results, and procedures shall be certified to the City Engineer by a licensed engineer. All roads to be dedicated to the City shall be inspected by the City, with the cost of said inspection being reimbursed to the City.

Figure 2. Typical Urban Road Cross-Section†



2. Utility Service Systems.
 - A. Public sanitary sewers and water systems shall be installed within the street or right-of-way or established easements as required by the State and local ordinances.
 - B. Gas mains shall be installed within the street right-of-way or an established easement.
 - C. Electric and telephone lines shall be installed within the street right-of-way or established easements.

† Or current standard available in the Clerk's office

- D. All subdivisions, and their lots, that are located within the incorporated boundaries of the City shall be required to connect to municipal utilities.
 - E. All utility service systems shall be subject to approval by the City Engineer and Council.
3. Storm Drainage.
- A. Adequate storm sewers and inlets shall be provided where necessary. All storm water intakes shall be capable of handling a five year storm, and the pipe shall be capable of handling a 10 year storm. In addition, the subdivision shall have 100 year overland conveyance capacity.
 - B. Natural waterways shall be maintained and protected.
 - C. All storm water facilities shall be subject to design review and approval by the City Engineer and Council, if said facilities are required by the City Engineer or if said facilities are included in the proposed subdivision.
 - D. If the development covers an area of five or more acres, the applicant must have the necessary Iowa Department of Natural Resources permit(s).
4. Utility Locations. The proposed location, alignment, and sizes of all existing public utilities shall be shown on the preliminary plat. With the exception of those that service nonresidential subdivisions, all utilities shall be located underground. Approval of the preliminary plat will form the basis of final designs of all improvements. All underground utilities that will be located within the street right-of-way shall be constructed, and service provided to each lot, before acceptance of the improvements by the City.
5. Signs and Traffic Control Devices. To insure uniformity with the existing street signage system, all street name signs and traffic control signs shall be erected in conformance with the *Manual of Uniform Traffic Control Devices* (MUTCD) and the Chickasaw County E-911 requirements. The proprietor will be responsible for all costs associated with sign erection. Maintenance of all signs will remain the responsibility of the proprietor until, or unless, the streets or roads are accepted into the City street system.
6. Mailboxes, Including Newspaper Boxes. Mailboxes and mailbox construction shall conform to United States Postal Service standards.
7. Parking. The depth and width of properties reserved and designed for residential, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in Chapter 155 of this Code of Ordinances.
8. Sidewalks. Sidewalks shall be required in all subdivisions, per Figure 2, on both sides of streets. Sidewalks shall be installed within 180 days after issuance of a certificate of occupancy for a building or structure on the lot in question.
9. Street Lighting. Street lighting shall be required in all subdivisions. Street lighting as is appropriate to protect public safety and welfare shall be reviewed and approved by the City Council.

165.07 PRELIMINARY PLAT REQUIREMENTS.

1. Pre-preliminary Plat. Each proprietor of land is strongly encouraged to confer with the Building Official and City Engineer before preparing the preliminary plat in order to become familiar with City regulations affecting the territory in which the proposed subdivision lies. A pre-preliminary plat may be presented at that time.
2. Number of Copies. Whenever the proprietor of any tract or parcel of land within the incorporated area of the City wishes to subdivide or plat the same, the proprietor shall cause to be prepared a preliminary plat of said subdivision, and shall submit 10 copies of said preliminary plat and supportive information to the Building Official for preliminary study and approval. The preliminary plat shall be submitted to the Building Official a minimum of 21 days prior to Council consideration.
3. Referral of Preliminary Plat. The Building Official shall refer one copy to the members of the Council, City Engineer, and Building Inspector. Each of the aforementioned individuals shall examine the plat as to its compliance with the laws and regulations of the City and submit their findings to the Building Official as soon as possible, but within seven days.
4. Contents of Preliminary Plat. Preliminary plats shall contain, include, or show the following requirements.
 - A. Name of subdivision, date, an arrow indicating the northern direction, and the legal description of the property being platted.
 - B. Plats shall be drawn in sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references.
 - C. Name and address of the proprietor, if different than the owner.
 - D. Name and address of proprietor's engineer or surveyor.
 - E. Existing buildings, railroads, utilities, and other rights-of-way.
 - F. Location, names and widths of all existing and proposed roads, alleys, streets, and highways in or adjoining the area being subdivided.
 - G. Location and names of adjoining subdivisions as well as a list of proprietors within 300 feet of the property to be subdivided.
 - H. Proposed lot lines with approximate dimensions and the square foot area of each lot.
 - I. Areas dedicated for public use, such as schools, parks, and playgrounds.
 - J. Contour lines shown at intervals of two feet.
 - K. Building setback lines.
 - L. Boundaries of the proposed subdivision shall be indicated by a heavy black line.
 - M. Existing zoning of the proposed subdivision, as well as the existing zoning of the adjoining property or properties.
 - N. Proposed utility service:

- (1) Source of water supply.
 - (2) Provision for sewage disposal, storm water drainage, and flood control, if applicable.
 - O. A vicinity sketch at a legible scale showing the relationship of the plat to its general surroundings.
 - P. Lots shall be numbered in a way that is acceptable to the County Auditor's office.
 - Q. Existing and proposed easements showing widths and purposes of said easements.
 - R. If applicable, the regulatory flood elevation data limits of the 100 year floodplain boundaries, original and revised, must be shown.
 - S. Environmental studies may be required if a proposed subdivision is located in, or near, an environmentally sensitive area.
5. Review and Action by the Council.
- A. The Council shall then take action upon the preliminary plat not more than 60 days after the initial receipt by the Building Official. The Council may certify its approval or disapproval. If the preliminary plat is disapproved by the Council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to District Court, within 20 days, the failure of the Council to issue approval of the preliminary plat as provided in this chapter. If approved, the preliminary plat shall be certified by resolution.
 - B. Before approving a preliminary plat, the Council may at its discretion hold a public hearing, notice of which shall be given by publication in a local newspaper at least seven but not more than 20 days before said public hearing.
 - C. If a public hearing is scheduled, as a courtesy, property owners within 300 feet may be notified of said public hearing. The procedure for providing notice to adjacent property owners shall be the procedure outlined when reviewing a Special Permit under Chapter 155 of this Code of Ordinances.
 - D. The approval of the preliminary plat by the Council does not constitute acceptance of the subdivision, but shall authorize the proprietor to proceed with the preparation of the final plat.
 - E. The approval of a preliminary plat by the Council shall be valid for a period of one year from the date of such approval, except upon application for and approval of an extension of such period of validity, by the Council. After one or more lots have been final platted, the preliminary plat is valid until such time that it is superseded by another preliminary plat.

165.08 FINAL PLAT REQUIREMENTS AND PROCEDURES.

- 1. Number of Copies. Within one year of approval of the preliminary plat, or extension thereto, by the Council, the proprietor shall submit 10 copies of the final plat for review by the Building Official. Final plat review shall not begin until, or unless, all copies of the final plat and accompanying material

have been submitted to the Building Official a minimum of 21 days prior to Council consideration.

2. Referral of Final Plat. The Building Official shall refer one copy to the members of the Council, City Engineer, and Building Inspector. Each of the aforementioned individuals shall examine the plat as to its compliance with the laws and regulations of the City and submit their findings to the Building Official as soon as possible, but within seven days.
3. Contents of Final Plat. Final plats shall contain, include, or show the following requirements.
 - A. Name of subdivision and proprietor.
 - B. Plats shall be drawn on sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references. An arrow indicating the northern direction.
 - C. Curve data including delta angle, length of arc, degree of curve, and length and direction of the chord.
 - D. Boundary lines of subdivided area with accurate distances, bearings, and boundary angles. The unadjusted error of closure shall not be greater than one in 10,000 for subdivision boundaries and shall not be greater than one in 5,000 for an individual lot. The areas of irregular lots within the plat shall be shown and may be expressed in either acres to the nearest one-hundredth acre, or square feet to the nearest 10 square feet.
 - E. Exact name, location, width, and designation of all streets within the subdivision. Additionally alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and have the proposed use clearly designated.
 - F. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage or access easements as are deemed necessary for the orderly development of the land encompassed within the plat. All such easements relative to their usage and maintenance shall be approved by the Council prior to the recording of the plat.
 - G. Building setback lines with dimensions.
 - H. Legal description of the property being subdivided.
 - I. Lot numbers.
 - J. Certificate of Survey.
 - K. Description and location of all permanent monuments set in the subdivision, including ties to original Government corners.
 - L. A table that lists coordinate values for all property corners.
4. Accompanying Material.
 - A. The documents required by Chapter 354.11 of the *Code of Iowa*.

- B. A copy of any proposed restrictive covenants, which shall be submitted for the purpose of review and recommendation by the City Attorney.
 - C. Any dedication or easement to the City for any property intended for public use.
5. Review and Action By the Council.
- A. The Council will consider the recommendations from all reviewing offices. The Council shall approve or disapprove of the final plat. If the final plat is disapproved by the Council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to District Court, within 20 days, the failure of the Council to issue approval of the final plat as provided in this chapter. If approved, the final plat shall be certified by resolution.
 - B. The Council may refuse to approve any plats for proposed subdivisions, which include improvements or facilities that are subject to regulations and ordinances of the County Board of Health unless such improvements or facilities have been approved by that Department. The Council may deny approval of a final plat where the lots have an area less than the minimum area required by such applicable regulations and ordinances.
 - C. The passage of a resolution by the Council accepting the plat shall constitute final platting approval for the area shown on the final plat. The proprietor shall cause such plat to be recorded as required by Chapter 354, *Code of Iowa*, before the County shall recognize the plat as being in full force and effect. In addition, 10 copies of the approved final plat and adopting resolution as well as one copy of the completed plat proceedings with restrictive covenants shall be submitted to the Building Official by the proprietor.
6. Improvements.
- A. All standards and improvements described in Section 165.06 shall be installed in accordance with the approved plans and specifications before acceptance of the final plat by the Council. All improvements shall be inspected by the proprietor's engineer and City Engineer and certified to the Council with the cost of said inspection by the City Engineer being reimbursed to the City.
 - B. Subdivisions may be developed in phases.
 - C. Before acceptance of the improvements by the Council, the proprietor shall enter into an agreement with the Council to ensure the completion of the improvements within a specified time period. The agreement shall specify: the improvements to be constructed; the schedule for completion of the construction (each phase not to exceed three years); and shall be accompanied with a performance bond, corporate surety bond, cash, or other surety approved by the City Attorney in an amount equal to 110 percent of the estimated cost of said improvements.
 - D. The proprietor of the land being platted shall be required to provide to the City property maintenance bonds, or other means satisfactory to the City Engineer and City Attorney, so as to insure that for a period of two years from the date of acceptance and completion of any

improvement, the proprietor shall be responsible for maintaining the improvements in good repair.

165.09 MINOR SUBDIVISION REQUIREMENTS AND PROCEDURES.

1. The proprietor shall prepare the proposed minor subdivision plat and shall submit 10 copies to the Building Official. Said plat shall contain such information as required by this chapter, specifically the requirements in Sections 165.08(3) and (4), or as may be specified by the Building Official.
2. If the Building Official shall determine that the “Minor Subdivision Plat” contains sufficient data and elements to furnish a basis for review, then the Building Official shall forward copies of the submitted plat to the members of the Council, City Engineer, Building Inspector, and to such other agencies or persons as may be deemed appropriate and necessary.
3. Review by Agencies. Within 10 working days following receipt of an application by the Building Official:
 - A. The City Engineer shall notify the Building Official that access onto the City street will or will not be granted and that other improvements do or do not conform to current standards.
 - B. The City Engineer and/or the Public Works personnel shall notify the Building Official that the land so proposed to be subdivided will comply with all applicable City, County and State standards, and that the proposed or existing system of water supply complies with applicable City, County and State standards.
 - C. Other agencies or persons shall inform the Building Official on factors deemed appropriate and necessary.
4. Within 21 working days following the date of receipt of an application, or such additional period as the proprietor may authorize, the Building Official may schedule a public hearing, following the guidelines established in Sections 165.07(5)(B) and (C), on the subdivision request with the Council.
5. The Council may approve or disapprove of the subdivision request. If the minor plat is disapproved by the Council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal, within 20 days to District Court, the failure of the Council to issue final approval of the minor plat as provided in this chapter. If approved, the minor plat shall be certified by resolution.
6. Limitation. This section shall not be applicable to a parcel of land of any size which has previously had a subdivision severed from it. For definition purposes of this section only, a “parcel of land” means any sized contiguous piece of property under same ownership as shown on the County Auditor’s plat books as on the effective date of the ordinance codified in this chapter.

165.10 PLACES. Where it is desired to subdivide a parcel of land, which because of its size or location, does not permit a normal lot or street area, there may be established a “place.” Such a place may be in the form of a court, non-connecting street or other arrangement, provided, however, that proper access shall be given to all lots from a dedicated place (street or court). If any dead-end place, court or cul-de-sac is more than 250 feet in length, it shall terminate in an open space, preferably circular, having a minimum radius of 60 feet. Except in unusual instances, no dead-end street or place shall exceed 600 feet in length.

165.11 BUILDING PERMITS AND OCCUPANCY PERMITS.

1. No occupancy permit for any building in a subdivision shall be issued prior to the completion of the improvements in a manner which shall be adequate for vehicular access by the prospective occupant and by law enforcement and fire equipment.
2. No building permits, except those specifically for demolition, shall be issued in the subdivision prior to the time that the streets and easements affecting such lot are brought to the grade established in the construction plans.
3. No building permit shall be issued for the final 10 percent of lots, or the final five lots of a subdivision, whichever is greater, until all public improvements required by the Council for the plat have been fully completed and dedicated to the City.

165.12 VACATION OF PLATS, STREETS AND OTHER PUBLIC LANDS. This section is intended to be consistent with Sections 354.22 and 354.23 of the *Code of Iowa*, as amended, and any changes to the Code shall automatically be assumed to be part of this chapter. The Council shall consider all vacations of plats, streets, and other public lands. The Council may either approve or disapprove, in writing, each vacation request.

1. Vacation of Plats. The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition with the Council for consideration, and they shall set a time and place for a public hearing on the petition. Written notice of the public hearing shall be provided by the petitioner to proprietors and mortgagees within 300 feet of the area to be vacated. If a portion of the official plat adjoins a river or State-owned lake, the Iowa Department of Natural Resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with 14 days between publications, stating the date, time, and place of the public hearing. The official plat or portion of the official plat shall be vacated upon recording of all the following documents:
 - A. An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each property along with an accurate description to be used to describe the land after the lots are vacated.
 - B. A resolution by the Council approving the vacation and providing for the conveyance of those areas included in the vacation which were previously set aside for dedicated public use.
 - C. A certificate of the County Auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

No part of this section authorizes the closing or obstructing of public highways. The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use of property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees within the official plat.

2. Vacation of Streets and Other Public Lands. The City may vacate a part of an official plat that had been conveyed to the City or dedicated to public which is deemed by the Council to be of no benefit to the public. The Council shall

vacate by resolution following a public hearing or by ordinance and the vacating instrument shall be recorded. The City may convey the vacated property by deed to adjoining proprietors through the vacation instrument. If the vacating instrument is used to convey property, then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed along with the corresponding legal description of each parcel being conveyed. A recorded vacation instrument that conforms to this section is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the County Recorder and County Auditor. A vacation instrument recorded pursuant to this subsection shall not operate to annul any part of an official plat except as provided for in subsection 1 of this section.

165.13 FEES. Non-refundable fees pertaining to permits and actions required by this chapter shall be in accord with the following Schedule of Fees. Said fees shall include, but not be limited to, the following:

1. Major Subdivisions - \$200.00 + \$10.00 per lot.
2. Minor Subdivisions - \$100.00 + \$10.00 per lot.
3. Vacation of Plats, Street, and Other Public Lands - \$ 100.00. This fee shall not be administered and collected if the dedication or vacation is processed in the form of a plat and either minor or major subdivision fees are paid in lieu thereof.
4. Recording Fees, per a schedule on file in the County Recorder's Office.

165.14 VARIATIONS AND EXCEPTIONS. Whenever a tract proposed to be subdivided is of such unusual topography, size, or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustices, the Council may vary or modify the requirements of this chapter to allow the proprietor to develop in a reasonable manner with due regard for the public health, welfare, and safety provided the interests of the City and surrounding area are protected and the general intent and spirit of this chapter is preserved.

165.15 ENFORCEMENT.

1. No plat of any subdivision in or within two miles of the corporate limits of the City shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein.
2. No street hereafter created in the incorporated area of the City shall become a part of any street system as defined in the *Code of Iowa*; and no improvements shall be made by the City, nor shall the City incur any expense for maintenance or repair of roads or other facilities on land that had been subdivided unless such road or other facility shall have been first approved and accepted by the Council in accordance with the provisions of this chapter and the dedication thereof accepted as a public road or improvement.
3. The City shall not issue building, occupancy, or repair permits for any structure located on a lot in any subdivision that is located within the City unless the plat of such subdivision has been first approved in accordance with the provisions contained herein.
4. Violations of the provisions of this chapter or failure to comply with any of its requirements shall constitute a municipal infraction. Nothing contained

herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

165.16 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council in accordance with the regulations and provisions of the City and the *Code of Iowa*.

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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 NASHUA, IOWA, BY ADDING A NEW SECTION
LIMITING PARKING TO 30 MINUTES ON A PORTION OF SOUTH
BOONE STREET**

BE IT ENACTED by the City Council of the City of Nashua, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Nashua, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. 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 NASHUA, IOWA, 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 Nashua, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Nashua, Iowa, 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 NASHUA, IOWA, BY AMENDING PROVISIONS
PERTAINING TO SEWER SERVICE CHARGES**

BE IT ENACTED by the City Council of the City of Nashua, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Nashua, Iowa, 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 of the bill for water and water service attributable to the customer for the property served, but in no event less than \$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

CODE OF ORDINANCES APPENDIX

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 RAILROAD ADDITION TO NASHUA, IOWA

Be It Enacted by the City Council of the City of Nashua, Iowa:

SECTION 1. The alley lying in Block Two, Railroad Addition to Nashua, 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 Nashua, Iowa

By: _____
 (enforcement officer)

CODE OF ORDINANCES APPENDIX

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 Nashua, 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 Nashua, 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 Nashua, Iowa

By: _____
 (enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Nashua, 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 Nashua, Iowa

By: _____
 (designate officer initiating notice)

CODE OF ORDINANCES APPENDIX

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice:

City of Nashua, Iowa

By: _____, _____
(Name) (Title)

CODE OF ORDINANCES APPENDIX

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Nashua, Iowa, will meet on the ____ day of _____, 20____, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Nashua, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Nashua, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on

(Name of Property Owner)

through _____, Agent,

(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

CODE OF ORDINANCES APPENDIX

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,
(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.
(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

