

ORDINANCE NO. 03-2021

AN ORDINANCE ADOPTING THE CITY CODE OF ORDINANCES.

Be it Ordained by the City Council of the City of New Vienna, Iowa:

Section 1. Pursuant to published notice, a public hearing has been duly held and the City Council hereby adopts the City of New Vienna, Iowa Code of Ordinances.

Section 2. An official copy of the City Code as adopted, including a certification by the City Clerk as to its adoption and effective date is on file at the office of the City Clerk.

Section 3. A copy of the code shall be kept available at the City Hall for public inspection and copies will be made available for sale at cost.

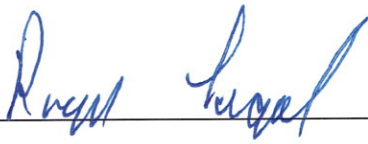
Section 4. All general ordinances or parts thereof passed prior to April 6<sup>th</sup>, 2021, not contained in the City of New Vienna, Iowa Code of Ordinances are hereby repealed except as hereafter provided, or special ordinances not named.

Section 5. The following ordinances are specifically saved from repeal:


NO ORDINANCES ARE SAVED FROM REPEAL SUBJECT TO THE PROVISIONS OF  
CODE OF IOWA SECTION 380.8(1)(a)

Section 6. This ordinance shall be in full force and effect upon publication as required by Iowa law.

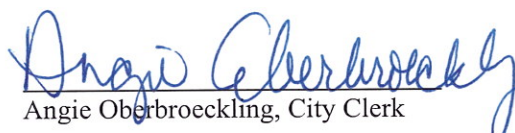
Passed by the City Council of New Vienna, Iowa on the 6<sup>th</sup> day of April, 2021 and approved this 6<sup>th</sup> day of April, 2021.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Angie Oberbroeckling, City Clerk

Certification: I hereby certify that the foregoing was published as Ordinance Number 03-2021 on  
April 6, 2021.

  
\_\_\_\_\_  
Angie Oberbroeckling, City Clerk

## NEW VIENNA CODE OF ORDINANCES

State legislation at any time can be enacted that would change the current law as adopted in your City Code. ECIA has no duty or responsibility to keep you updated on law changes. However, ECIA will make every attempt to notify you when legislative changes occur that have an impact on your City Code. It is the municipality's responsibility to either repeal or amend the ordinances impacted by the legislative changes. ECIA advises you to have your City Attorney review your City Code and the legislative changes that occur after the date of the City's last codification. ECIA cannot provide legal advice

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**CODIFIED BY: EAST CENTRAL INTERGOVERNMENTAL ASSOCIATION  
7600 COMMERCE PARK  
DUBUQUE, IOWA 52002**

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**TITLE I GENERAL PROVISIONS**

**CHAPTER 1 GENERAL PROVISIONS**

1-1-1	Definitions	1-1-6	Severability
1-1-2	Grammatical Interpretation	1-1-7	Catchlines, Titles, Headings and Notes
1-1-3	Prohibited Acts Include Causing, Permitting	1-1-8	Amendments to City Code, Effect of New Ordinances, Amendatory Language
1-1-4	Construction		
1-1-5	Amendment		

1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Building" means any man-made structure permanently affixed to the ground.  
(ECIA Model Code Amended in 2011)

2. "City" means the City of New Vienna, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;

3. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;

4. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;

5. "County" means the County of Dubuque, Iowa;

6. "Fiscal Year" means July 1 to June 30.

7. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;

8. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

(ECIA Model Code Amended in 2010)

9. "May" confers a power;

10. "Month" means a calendar month;
11. "Must" states a requirement;
12. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
13. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
14. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
15. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
16. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;
17. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
18. "Preceding" and "following" mean next before and next after, respectively;
19. "Property" includes real and personal property;
20. "Real property" includes lands, tenements and hereditaments;
21. "Shall" imposes a duty;
22. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
23. "State" means the State of Iowa;
24. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
25. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
26. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
27. "Written" includes printed, typewritten, mimeographed or multigraphed;

28. "Year" means a calendar year;

29. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

30. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

1. Gender. Any gender includes the other gender;

2. Singular and Plural. The singular number includes the plural and the plural includes the singular;

3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;

4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this Code are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the New Vienna Municipal Code of 1995 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

1-1-6 SEVERABILITY. If any section, provision or part of the City Code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

1-1-7 CATCHLINES, TITLES, HEADINGS AND NOTES. The catchlines of the several sections of this City Code printed in boldface type as well as the titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross-references and State law references, unless set out in the body of the section itself, contained in this City Code, do not constitute any

part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

(ECIA Model Code Amended in 2010)

1-1-8 AMENDMENTS TO CITY CODE, EFFECT OF NEW ORDINANCES, AMENDATORY LANGUAGE.

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.

2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: “That section \_\_\_\_\_ of the Code of Ordinances, City of \_\_\_\_\_, Iowa is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: “That the Code of ordinances, City of \_\_\_\_\_, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ...” The new section shall then be set out in full as desired.

(ECIA Model Code Amended in 2010)



## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 2 RIGHT OF ENTRY**

#### 1-2-1 Right of Entry

1-2-1 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

**TITLE I GENERAL PROVISIONS**

**CHAPTER 3 PENALTY**

- 1-3-1 General Penalty
- 1-3-2 Civil Penalty - Municipal Infraction
- 1-3-3 Scheduled Fines

1-3-1 GENERAL PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a). No violation of the City Code shall subject an individual to incarceration.

Code of Iowa, Sec. 903.1(1)(a)  
(ECIA Model Code Amended in 2008)  
(ECIA Model Code Amended in 2009)  
(ECIA Model Code Amended in 2010)  
(ECIA Model Code Amended in 2020)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.  
(Code of Iowa, Sec. 364.22)

1. Definitions.

a. Municipal Infraction. Except 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 Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of New Vienna, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of New Vienna, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of New Vienna.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

2. Violations, Penalties, and Alternative Relief.

a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

Schedule of Civil Penalties

First offense: Not more than seven hundred fifty dollars (\$750.00).

Repeat Offense: Not more than one thousand dollars (\$1,000.00)  
(Ord. 4-2, passed November 4, 2002)  
(Amended during 2009 codification)  
(ECIA Model Code Amended during 2010)

b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

c. 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.

### 3. Civil Citations.

a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested or by publication as provided in the Iowa Rules of Civil Procedure.  
(Ord. 4-2, passed November 4, 2002)  
(Amended during 2009 codification)

c. The original of the citation shall be sent to the Clerk of the District Court. If the infraction involves real property a copy of the citation shall be filed with the County Treasurer.  
(ECIA Model Code Amended in 2011)

d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

- (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 property, if applicable.

4. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude

the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, such violation will be subject to a contempt of court action.

5. This section does not preclude a peace officer from issuing a criminal citation for violation of a City Code 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 the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of not less than \$65.00 but not to exceed \$625.00. No violation of the City Code shall subject an individual to incarceration. A simple misdemeanor criminal charge filed pursuant to this Code of Ordinances shall only subject an individual to a monetary fine.

(ECIA Model Code Amended in 2017)

(ECIA Model Code Amended in 2020)

1-3-3 SCHEDULED FINES. The scheduled fine for a violation of any provision of the City Code shall be in accordance with Chapter 805, Code of Iowa unless another scheduled amount is provided in the City Code of Ordinances or the Iowa Code.

**TITLE I GENERAL PROVISIONS**

**CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL**

1-4-1	Purpose and Intent	1-4-4	Subpoenas
1-4-2	General	1-4-5	Conduct of Hearing
1-4-3	Form of Notice of Hearing	1-4-6	Method and Form of Decision

1-4-1 PURPOSE AND INTENT.

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.

2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

1-4-2 GENERAL.

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the City Council.

2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.

3. Continuances. The City Council may grant continuances for good cause shown.

4. Oaths, certification. The City Council or any member thereof has the power to administer oaths and affirmations.

5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

1-4-3 FORM OF NOTICE OF HEARING.

The notice to parties shall be substantially in the following form, but may include other information:

"You are hereby notified that an evidentiary hearing will be held before the \_\_\_\_\_ City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City

Clerk."

1-4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

#### 1-4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.

3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

6. Rights of parties. Each party shall have these rights, among others:

a. To call and examine witnesses on any matter relevant to the issues of the hearing;

b. To introduce documentary and physical evidence;

c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

d. To impeach any witness regardless of which party first called the witness to testify;

e. To rebut the evidence against the party; and

f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.

b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.

8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

#### 1-4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.

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

3. Effective date of decision. The effective date of the decision shall be stated therein.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

2-1-1	Charter	2-1-4	Number and Term of City Council
2-1-2	Form of Government	2-1-5	Term of Mayor
2-1-3	Powers and Duties	2-1-6	Copies on File

2-1-1 CHARTER. This chapter may be cited as the Charter of the City of New Vienna, Iowa.

2-1-2 FORM OF GOVERNMENT. The form of government of the City of New Vienna, Iowa, is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2-1-3 POWERS AND DUTIES. The City 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 of New Vienna, Iowa.

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for staggered terms of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of two years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-6 COPIES ON FILE. The City Clerk shall keep an official copy of the charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the City Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)



**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS,  
STANDING COMMITTEES**

2-2-1	Creation of Appointive Officers	2-2-6	Surety
2-2-2	Appointment of Officers	2-2-7	Blanket Position Bond
2-2-3	Terms of Appointive Officers	2-2-8	Bonds Filed
2-2-4	Vacancies in Offices	2-2-9	Boards and Commissions
2-2-5	Bonds Required		

2-2-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers: Clerk, Treasurer, Attorney, and Fire Chief, Emergency Management Commission Representative.

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore with the consent of a majority of the City Council.

The City Council shall appoint the first Fire Chief of the volunteer fire department for a term of two (2) years. Future Fire Chiefs shall be elected for terms of one (1) year by the members of the volunteer fire department, with the approval of the City Council.

All other officers shall be appointed or selected by the City Council unless otherwise provided by law or Ordinance.

(Code of Iowa, Sec. 372.4(2))  
(Ord. 4-2, passed November 4, 2002)  
(Ord. 2-07, passed November 5, 2007)  
(Amended during 2021 codification)

2-2-3 TERMS OF APPOINTIVE OFFICERS. The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be two (2) years.

2-2-4 VACANCIES IN OFFICES. Vacancies in appointive office shall be filled in accordance with State law.

(ECIA Model Code Amended in 2014)

2-2-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.

(Code of Iowa, Sec. 64.13)

2-2-6 SURETY. Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as

surety on any of the bonds.

2-2-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.

(Code of Iowa, Sec. 64.13)

2-2-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk, except that the Clerk's bond shall be filed with the Mayor.

(Code of Iowa, Sec. 64.23)

2-2-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.

2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.

3. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.

4. Gender Balance: Boards and commissions shall be gender balanced in accordance with Section 69.16A Code of Iowa.

(ECIA Model Code Amended in 2014)

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS**

2-3-1	General Duties	2-3-7	Powers and Duties of the Police Chief – Reserved
2-3-2	Books and Records	2-3-8	Powers and Duties of the City Attorney
2-3-3	Transfer of Records and Property To Successor	2-3-9	Powers and Duties of the Fire Chief
2-3-4	Powers and Duties of the Mayor	2-3-10	Powers and Duties of Standing Committees
2-3-5	Powers and Duties of the Clerk		
2-3-6	Powers & Duties of the Treasurer		

2-3-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Ordinance, or as otherwise directed by the City Council unless contrary to state law or City charter.

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

2-3-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

2-3-3 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

2-3-4 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

1. The Mayor shall supervise all departments of the City and give direction to department heads concerning the functions of the departments. The Mayor shall 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, Section 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special City Council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.

(Code of Iowa, Sec. 372.14(1) and (3))

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by an affirmative vote of not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City 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.

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

(Code of Iowa. Sec. 380.6)  
(ECIA Model Code Amended in 2008)

4. The Mayor shall 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 or Ordinance.

5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.

6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.

7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ or discharge. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

9. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council the Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.

10. The Mayor shall sign all licenses and permits which have been granted by the City Council, except those designated by law or Ordinance to be issued by another municipal officer.

11. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when their terms, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.

12. The Mayor shall order to be removed, at public expense, any nuisance for which no

person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by the County Sheriff.

2-3-5 POWERS AND DUTIES OF THE CLERK. The duties of the Clerk shall be as follows:

1. The Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund, within fifteen (15) days of the City Council meeting. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

(Code of Iowa, Sec. 372.13(4) and (6))

(ECIA Model Code Amended in 2014)

2. The Clerk shall record each measure taken by the City Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the City Council made upon the Mayor's veto.

(Code of Iowa, Sec. 380.7(1))

3. The Clerk shall cause to be published either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions of an Ordinance setting forth the main points of the Ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the Ordinance. The description shall include the title of the Ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the Ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when the Ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

The Clerk shall authenticate all such measures except motions with said Clerk's signature, certifying the time and place of publication when required.

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

(Ord. 4-2, passed November 4, 2002)

4. The Clerk shall maintain copies of all effective City Ordinances and Codes for public use.

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

5. The Clerk shall publish notice of public hearings, elections and other official actions as required by state and City law.

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

7. The Clerk shall be the chief accounting officer of the City.

8. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.

(Code of Iowa, Sec. 384.20)

9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the county board of supervisors.

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

10. The Clerk shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.

11. The Clerk shall balance all funds with the Treasurer at the end of each month.

12. The Clerk shall prepare the annual public report, publish it, and send a certified copy to the state auditor and other state officers as required by law.

(Code of Iowa, Sec. 384.22)

13. The Clerk shall maintain all City records as required by law.

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

14. The Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.

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

15. The Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.

16. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control as it may be necessary to such officer in the discharge of the duties of the municipal officer. The Clerk shall furnish a copy of any record, paper or public document under the control of the Clerk, which is not a "confidential record" as defined under Iowa Code Section 22.7, to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the municipal corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)  
(ECIA Model Code Amended in 2020)

17. The Clerk shall attend all meetings of committees, boards and commissions of the City. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

19. The Clerk shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number,

official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

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

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

21. The Clerk shall draw all warrants/checks for the City upon the vote of the City Council.

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

22. The Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.

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

23. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.

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

24. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.

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

25. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

26. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.

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

27. The Clerk shall prepare a receipt for all funds received.

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

28. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.

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

2-3-6 POWERS AND DUTIES OF THE TREASURER.

1. The Treasurer shall keep the record of each fund separate.

(Code of Iowa, Sec. 372.13(4) and 384.85)

2. The Treasurer shall balance all funds with the Clerk at the end of each month.

2-3-7 POWERS AND DUTIES OF THE POLICE CHIEF - RESERVED.

2-3-8 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

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

1. If requested, the City Attorney shall attend every regular meeting of the City Council and attend those special meetings of the City Council at which the City Attorney is required to be present.

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

3. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the City Attorney accompanied by all proceedings relating to said actions.

4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.

5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.

6. 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 City Council.

7. The City Attorney shall, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.



8. 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.

9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

2-3-9 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall 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.

2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.

3. The Fire Chief shall 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.

4. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:

a. Fire prevention.

b. Maintenance and use of fire escapes.

c. The investigation of the cause, origin and circumstances of fires.

d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.

e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

5. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.

6. The Fire Chief shall make such recommendations to owners, occupants, caretakers or

managers of buildings necessary to eliminate fire hazards.

7. The Fire Chief shall, at the request of the state fire marshal, and as provided by law, aid said marshal in the performance of the marshal's duties by investigating, preventing and reporting data pertaining to fires.

## 2-3-10 POWERS OF STANDING COMMITTEES.

(Amended during 2009 codification)

Standing Committee: is a subunit of the city council established in a permanent fashion to aid the city council in accomplishing its duties. A standing committee oversees, where required, the work of the council; carries out tasks given to it by the council and the management of their perspective working group. The standing committee carries no authority as to decision-making, except to provide guidance to the council concerning the implementation of city policy.

Appointment: Each Council Member is required to serve on two Standing Committees. No more than two Council Members on each Standing Committee. A Council Member may elect to serve on a Standing Committee or the Mayor shall appoint two Council Members per committee. Appointment to each committee shall be for a period of two years. Council Members will rotate every two years to a different committee or may elect to remain on the same committee, if unattested.

## SEWER and WATER

1. Complete and Maintain Map Drawings of City Sewer & Water Lines.
2. Report on Sewer Issues: Lagoon, Sewer line cleaning & televising, manholes.
3. Report on Water Issues: Water tower, mains, meters.
4. Budget issues.

## MAINTAINANCE – BUILDING / PARKS

1. Repairs on Buildings – City Hall, Maintenance Garage, Fire Dept.
2. Parks – Grass Cutting, Removal of Leaves, Portable Restrooms.
3. Repairs in Parks – Equipment, Land.
4. Budget Issues.

## PUBLIC SAFETY

1. Police Department – Equipment, Grants, etc.
2. Fire Department – Warning Siren, Bi-County Ambulance, Emergency Management (Hazard Preparedness).

3. Street Lighting / Christmas Decorations.

4. Sidewalk Issues / Snow Removal.

a. Improve and maintain sidewalks in a safe condition.

b. Any sidewalks constructed, repaired or replaced – needs a sidewalk permit completed.

c. Any sidewalk improvements shall be performed under the supervision and inspection of the City Superintendent of Public Works.

d. Property owners must keep natural accumulations of snow or ice removed within 24 hours after deposit of accumulations.

5. Budget Issues.

#### STREET MAINTENANCE

1. Street Repairs and Improvements.

2. Snow Removal.

3. Budget Issues.

#### BUILDING PERMITS / STORAGE RENTAL / LIBRARY

1. Building Permits

a. Inspect layouts of applications. Must examine applications to determine whether the proposed construction or alteration will comply with the ordinance provision (set backs, etc.) relative thereto. Must be signed by either the owner of the premises or by the contractor in charge of the operations.

b. All work specified in the plans submitted in support of the application for the permit must be started and completed within one year of issuance.

2. Storage Rental – Keep record of rental dates and pricing.

3. Library Issues.

4. Budget Issues.

#### STANDING COMMITTEES — JOB DESCRIPTIONS OVERSEES AREAS / NOT RESPONSIBLE FOR DECISIONS

Standing Committee: is a subunit of the city council established in a permanent fashion to aid the

city council in accomplishing its duties. A standing committee oversees, where required, the work of the council; carries out tasks given to it by the council and the management of their perspective working group. The standing committee carries no authority as to decisions making, except to provide guidance to the council concerning the implementation of city policy.

Appointment: Each Council Member is required to serve on two Standing Committees. No more than two Council Members on each Standing Committee. A Council Member may elect to serve on a Standing Committee or the Mayor shall appoint two Council Members per committee. Appointment to each committee shall be for a period of two years. Council Members will rotate every two years to a different committee or may elect to remain on the same committee, if unattested.

#### SEWER and WATER

1. Complete and Maintain Map Drawings of City Sewer & Water Lines.
2. Report on Sewer Issues: Lagoon, Sewer line cleaning & televising, manholes.
3. Report on Water Issues: Water tower, mains, meters.
4. Budget issues.

#### MAINTAINANCE — BUILDING / PARKS

1. Repairs on Buildings — City Hall, Maintenance Garage, Fire Dept.
2. Parks — Grass Cutting, Removal of Leaves, Portable Restrooms.
3. Repairs in Parks — Equipment, Land.
4. Budget Issues.

**TITLE II POLICY AND ADMINISTRATION**  
**CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

2-4-1 Council Member  
2-4-2 Mayor

2-4-3 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$25.00 for each meeting of the City Council but in no event shall any City Council member be paid more than \$480.00 in any one year.

(Code of Iowa, Sec. 372.13(8))  
(Ord. 1-93, Passed February 2, 1995)  
(Ord. 1-2013, Passed October 23, 2013)

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$1,200.00 to be paid once per year.

(Code of Iowa, Sec. 372.13(8))  
(Ord. 1-93, Passed February 2, 1995)  
(Ord. 1-97, Passed September 2, 1997)  
(Ord. 1-2013, Passed October 23, 2013)

2-4-3 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1	Budget Adoption	2-5-6	Council Transfers
2-5-2	Budget Amendment	2-5-7	Budget Officer
2-5-3	Budget Protest	2-5-8	Accounting
2-5-4	Accounts and Programs	2-5-9	Budget Accounts
2-5-5	Annual Report	2-5-10	Contingency Accounts

2-5-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows:

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the state City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:

- a. Expenditures for each program.
- b. Income from sources other than property taxation.
- c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, as provided in rules of the state City finance committee, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than twenty days before the date that the budget must be certified to the County Auditor and not less than ten days before the date set for hearing, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have such copies of the budget available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.

(ECIA Model Code Amended in 2012)

(ECIA Model Code Amended in 2014)

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

3. The City Council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.

4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following 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, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

2-5-2 BUDGET AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective July first and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.

2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.

3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by state law, to any other City fund, unless specifically prohibited by state law.

4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in section 2-5-3 of this chapter, except that the City Finance Committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-5-3 BUDGET PROTEST \_ - RESERVED.

(ECIA Model Code Amended in 2014)

2-5-4 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the state City finance committee.

The City shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any City purpose, by any City officer, employee, or other person, and which show the receipt, use, and disposition of all City property. Public monies may not be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

2-5-5 ANNUAL REPORT. Not later than December first of each year the City shall publish 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 this report shall be furnished to the auditor of state.

(Code of Iowa, Sec. 384.22)  
(Ord. 4-2, passed November 4, 2002)

2-5-6 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545.2.4(384,388))

2-5-7 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-8 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk.

(Code of Iowa, Sec. 384.20)

2-5-9 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or state law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.



(Code of Iowa, Sec. 384.20)

2-5-10 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

All council transfers shall be reported in writing at the next regular meeting of the City Council after being made and the fact set out in the minutes for the information of the Mayor and City Council.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 6 POSTING

- 2-6-1 Purpose  
2-6-2 Listing, Length of Notice
- 2-6-3 Removing Notice, Unlawful

2-6-1 PURPOSE. The City of New Vienna, Iowa has no newspaper published within the corporate limits of the City, and publications of notice of elections, Ordinances and amendments may be made by posting in three public places which have been permanently designated by Ordinance.

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

2-6-2 LISTING, LENGTH OF NOTICE. The three public places where public notice of Ordinances and other matters permitted to be posted are to be displayed are:

(Amended during 2009 codification)

Citizens State Bank

Old City Hall (7271 Columbus)

Post office

(Amended during 2021 codification)

The City Clerk is hereby directed to promptly post all Ordinances, amendments, and City Council actions after passage. The City Clerk is directed to post all such matters not less than four (4) nor more than twenty (20) days before the date of the election, hearing, or other action as required pursuant to Section 362.3 (Iowa Code) or as otherwise required by law.

(Code of Iowa, Sec. 380.7)

(ECIA Model Code Amended in 2020)

2-6-3 REMOVING NOTICE, UNLAWFUL. Any unlawful removal of a public notice or posting shall not affect the validity of the Ordinance or action taken.

(Ord. 7-90, Passed November 5, 1990)

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 7 ELECTIONS**

2-7-1 Municipal Elections

2-7-2 Effective Date

2-7-1 MUNICIPAL ELECTIONS. The City of New Vienna, Iowa does hereby conduct municipal elections under Chapters 44 and 45 of the Code of Iowa.

2-7-2 EFFECTIVE DATE. The Ordinance is effective upon publication following adoption the 6th day of July, 1987.

## **TITLE II POLICY AND ADMINISTRATION**

### **CHAPTER 8 POLICE PROTECTION**

#### 2-8-1 Police Protection

2-8-1 POLICE PROTECTION. Police protection in the City of New Vienna, Iowa shall be provided by the Dubuque County Sheriff's Department.

(Amended during 2021 codification)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

3-1-1	Violations of Chapter	3-1-5	Animals
3-1-2	Public Peace	3-1-6	Streets
3-1-3	Public Morals	3-1-7	Public Safety and Health
3-1-4	Minors	3-1-8	Public Property

3-1-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this Chapter.

3-1-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or defy another person to fight, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

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

2. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

3. Willfully permit upon any premises owned, occupied, possessed or controlled by such person any unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

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

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

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

5. Without lawful authority or order 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))

6. Without authority, obstruct any street, sidewalk, highway or other public way.

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

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

(Code of Iowa, Sec. 364.12(2)(a))

3-1-3 PUBLIC MORALS.

1. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to a person other than the person's spouse, or who commits a sex act in the presence or view of a third person, if the person does so to arouse or satisfy the sexual desires of either party and the person knows, or reasonably should know, that the act is offensive to the viewer.

(Code of Iowa, Sec. 709.9)

2. Public Urination/Defecation. It shall be unlawful for any person to urinate or defecate in a public place, other than a structure equipped with a toilet and/or urinal, in the presence of or in view of another person if the person knows, or reasonably should know, that such behavior would be offensive to a reasonable person.

(ECIA Model Code Amended in 2020)

### 3-1-4 MINORS.

1. Supplying liquor to minors. No person shall sell, give or otherwise supply alcoholic liquor, wine, or beer to any person under twenty-one (21) years of age, or knowingly permit any person under that age to consume alcoholic liquors, wine, or beer, except in the case of alcoholic liquor, wine, or beer, given or dispensed to a person under twenty-one (21) years of age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to such person by a physician or dentist for medicinal purposes.

(Code of Iowa, Sec. 123.47)

### 3-1-5 ANIMALS.

1. Bullfights and other contests. No person shall keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, or engage in, aid, abet, encourage or assist in any bull, bear, dog or cock fight, or a fight between any other creatures.

(Code of Iowa, Sec. 717.3)

2. Animals running at large. No person shall allow cattle, horses, swine, sheep or other similar animals or fowl to run at large within the limits of the municipal corporation. At large means an animal found off the premises of the owner or upon the public streets, alleys, public grounds or parks within the City. A dog or cat shall not be deemed at large:

a. If it is attached to a leash of sufficient strength of not more than ten (10) feet in length and such leash is held by a competent person; or

b. It is accompanied by or at the side of the owner or a competent person and obedient to commands of the owner or competent person.

3. Restrictions on maintaining livestock within City. No person shall keep or maintain within the City any cattle, sheep, swine or poultry. The provisions of this subsection shall not apply when such animals are maintained in connection with a commercial agricultural business conducted on land classified as agricultural by the Dubuque County Assessor.

4. Nuisance. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

a. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.

b. Causes unsanitary, dangerous or offensive conditions.

c. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

### 3-1-6 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge 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 highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

(Ord. 4-2, passed November 4, 2002)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without first obtaining a permit.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly.

(Code of Iowa, Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

5. 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.

(Code of Iowa, Sec 321.369)

(Ord. 3-06, Passed November 6, 2006)

### 3-1-7 PUBLIC SAFETY AND HEALTH.

1. Expectorating. No person shall expectorate on the ground or on the floor of any structure within the City limits.

(Code of Iowa, Sec. 364.1)

2. Putting glass, etc., on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, ashes, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)  
(Amended during 2009 codification)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife unless licensed by the Iowa Department of Public Safety.

(Ord. 4-2, passed November 4, 2002)

4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this state; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.

c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.

d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when



it is evident that conventional control methods have not resolved the problem.

e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

7. Possession of Fireworks.

a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.

b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.

c. Prohibition. No person shall possess fireworks except as provided in this Chapter.  
(Ord. 4-2, passed November 4, 2002)

8. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent himself or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.

b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of his or her family during the course of, or as a result of, the performance of any official duty by said City employee.

(Ord. 4-2, passed November 4, 2002)

11. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.

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

12. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.

(Code of Iowa, Sec. 364.1)

13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Chief of Police for such purposes.

(Code of Iowa, Sec. 364.12)

14. Littering Prohibited.

a. As used in this Code, “discard” means to place, cause to be placed, throw, deposit or drop, and “litter” means any garbage, rubbish, trash, refuse, waste material and yard waste.

b. No person shall discard any litter within the City of New Vienna, except as provided and approved by the City of New Vienna, by collecting and discarding such litter in approved areas or approved receptacles.

c. It is unlawful for any person to deposit or place any garbage, rubbish, trash, refuse, waste material or yard waste in any street, alley, lane, public place, private property, or body of water within the City.

d. It is unlawful to place garbage, refuse or yard waste on the private property of another, or into another garbage, refuse or yard waste containers for the purpose of being hauled away.

e. It is unlawful to permit garbage, yard waste or refuse to remain for more than ten (10) days on private property that is under one’s ownership, possession or control. Yard waste may be retained more than ten (10) days if composting is being completed.

f. Notwithstanding the above provisions, garbage, refuse or yard waste may be placed on the untraveled portions of streets, alleys, lanes, public places or on private property to be hauled away, provided the garbage, refuse or yard waste containers are kept in place in the manner prescribed in this Code of Ordinances.

(ECIA Model Code Amended in 2017)

### 3-1-8 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a

public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the Mayor.

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

2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

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

4. Defacing or destroying proclamations or notices. No person shall intentionally 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 of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of 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)

5. Injury to gravestones or property in cemetery. No person shall willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, Sec. 716.1)

6. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.

(Code of Iowa, Sec. 716.1)

7. Obstructing or defacing roads. No person shall obstruct, deface or injure any public road by breaking up, plowing or digging within the boundary lines thereof.

(Code of Iowa, Sec. 716.1)

8. Injury to roads, railways, and other utilities. No person shall maliciously injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or

distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

9. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.

(Code of Iowa, Sec. 727.8)

(Ord. 4-2, passed November 4, 2002)

10. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 2 NUISANCES**

3-2-1	Definitions	NUISANCE – PARTY REGULATIONS
3-2-2	Nuisances Prohibited	
3-2-3	Other Conditions Regulated	3-2-13 Nuisance Party Defined
3-2-4	Notice to Abate Nuisance or Condition	3-2-14 Duty to Control Premises
3-2-5	Contents of Notice to Abate	3-2-15 Nuisance Party – Cease /Disperse
3-2-6	Method of Service	3-2-16 Violation of this Section
3-2-7	Request for Hearing and Appeal	
3-2-8	Abatement in Emergency	
3-2-9	Abatement by Municipality	
3-2-10	Collection of Cost of Abatement	
3-2-11	Installment Payment of Cost of Abatement	
3-2-12	Condemnation of Nuisance	

3-2-1 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

(Code of Iowa, Sec. 657.1)  
(Ord. 4-2, passed November 4, 2002)

a. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

(Code of Iowa, Sec. 657.2(1))  
(Ord. 4-2, passed November 4, 2002)

b. The causing or suffering any offal, filth, or noisome substance to accumulate or to remain in any place to the prejudice of others.

(Code of Iowa, Sec. 657.2(2))

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

(Code of Iowa, Sec. 657.2(3))

d. The corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

(Code of Iowa, Sec. 657.2(4))

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

(Code of Iowa, Sec. 657.2(5))

f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(Code of Iowa, Sec. 657.2(6))

g. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting streets.

(Code of Iowa, Sec. 657.2(7))

h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

(Code of Iowa, Sec. 657.2(8))

i. The depositing or storing of inflammable junk, such as unfilled tractor, trailer, or car tires, old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, within the fire limits of this City, unless it be in a building of fire resistant construction.

(Code of Iowa, Sec. 657.2(10))

j. The emission of dense smoke, noxious fumes, or fly ash.

(Code of Iowa, Sec. 657.2(11))

k. Weeds to be destroyed:

All owners and persons in possession or control of any lands within the city shall:

(1) Prevent the growth of noxious weeds from reaching maturity or blooming by cutting or destroying same.

a. Noxious Weeds Enumerated:

The following weeds are hereby declared to be noxious: Quack grass, *Agropyron repens*; perennial sow thistle, *Sonchus arvensis*; Canada thistle, *Cirsium arvense*; bull thistle, *cirsium lanceolatum*; European morning glory or field bindweed, *Convolvulus arvensis*; horse nettle, *Solanum carolinense*; leafy spurge, *Euphorbia esula*; perennial pepper-grass, *Lepidium draba*; Russian knapweed, *Centaurea repens*; buckthorn, *Rhamnus* and all other species of thistles belonging in genera of *Cirsium* and *Carduus*; butterprint, *Abutilon theophrasti* annual; cocklebur, *Xanthium commune*, annual; wild mustard, *Brassica arvensis*, annual; wild carrot, *Daucus carota*, biennial; buckhorn, *Plantago lanceolata*, perennial; sheep sorrel, *Rumex acetosella*, perennial; sour dock, *Rumex crispus*, perennial smooth dock, *Rumex altissimus*, perennial; puncture vine, *Tribulus terrestris*, annual; teasel, *Dipsascus*, biennial.

(2) Cut or destroy all weeds, vines, brush or other growth when said growth exceeds ten(10) inches in height in all developed areas or within two hundred (200) feet of any developed area or urban street. Natural areas, including but not limited to the edge along waterways or farmland, may exceed these established height limitations.

Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.

(Code of Iowa, Sec. 657.2(12))  
(Ord. 4-2, passed November 4, 2002)  
(Amended during 2009 codification)

l. Trees infected with Dutch elm disease.

(Code of Iowa, Sec. 657.2(13))

m. Effluent from septic tank or drain field running or ponding on the ground in the open.

n. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

o. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Code of Iowa, Sec. 657.2)

p. Dilapidated Buildings: Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof.

q. Abandoned Buildings: Any building or portion of a building which has stood with an incomplete exterior shell for longer than one year or any building or portion thereof which has stood unoccupied for longer than six (6) months and which meets one or more of the following criteria:

(1) Unsecured.

(2) Having housing code or building code violations.

r. Other Nuisances: Any nuisance described as such by chapter 657 of the Iowa Code.

(Res. 16-19, Passed June 4, 2019)

2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance may be abated by criminal citation, municipal infraction or as otherwise provided in this Ordinance or Code of Iowa.

(Code of Iowa, Sec. 657.3)  
(ECIA Model Code Amended in 2017)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.

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

2. The removal, repair, or dismantling of dangerous buildings or structures.

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

3. The numbering of buildings.

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

4. The connection to public drainage systems from abutting property when necessary for public health or safety.

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

5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.

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

6. The cutting or destruction of weeds, grass or other growth which constitutes a health, safety, or fire hazard. This subsection includes the cutting or elimination of excess grass growing in sidewalks and in the curb area adjacent to the City streets and leaving excess grass clippings on the sidewalks after mowing.

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

(Ord. 4-06, Passed November 6, 2006)

7. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets, except as provided in Section 3-2-3(1).

(Ord. 4-2, Passed November 4, 2002)

8. A lawn in excess of six inches in height is considered a nuisance.

(Amended during 2009 codification)

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other prohibited condition exists, the Mayor or officer may notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice. Notice and opportunity to abate the nuisance is not required prior to bringing legal action.

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

(ECIA Model Code Amended in 2014)

(ECIA Model Code Amended in 2017)



3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:  
(Code of Iowa, Sec. 364.12(3)(h))

1. A description of what constitutes the nuisance or other condition.
2. The location of the nuisance or condition.
3. A statement of the act or acts necessary to abate the nuisance or condition.
4. A reasonable time within which to complete the abatement.

5. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

3-2-6 METHOD OF SERVICE. The notice may be sent by regular mail to the property owner as shown by the records of the County Auditor.

(Code of Iowa, Sec. 364.12(3)(h))  
(ECIA Model Code Amended in 2014)

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer/employee ordering the abatement within seven (7) working days of the receipt of the notice or the right to a hearing shall be waived. If an appeal is not filed as set forth herein, it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. The property owner may appeal this decision by filing written notice with the City Clerk within five (5) calendar days of the decision. This appeal shall be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

(ECIA Model Code Amended in 2017)

3-2-8 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, and assess the costs as provided herein, after notice to the property owner under the applicable provision of sections 3-2-4 and 3-2-5 and hearing as provided in section 3-2-7.

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

3-2-9 ABATEMENT BY MUNICIPALITY. 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 City Clerk, who shall pay such expenses on behalf of the municipality.  
(Code of Iowa, Sec. 364.12(3)(h))

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred 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 City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

(Code of Iowa, Sec. 364.12(3)(h))  
(Ord. 4-2, passed November 4, 2002)

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential, commercial or industrial building found to be abandoned and a public nuisance and take title to the property for the public purpose of disposing of the property under Chapter 657A by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)  
(ECIA Model Code Amended in 2014)  
(ECIA Model Code Amended in 2017)

## NUISANCE – PARTY REGULATIONS

(Amended during 2009 codification)

3-2-13 NUISANCE PARTY DEFINED. A social gathering or party which is conducted on premises within the City and which, by reason of the conduct of those persons in attendance, results in any one or more of the following conditions of events occurring at the site of the said party or social gathering, or on neighboring public or private property: public intoxication; unlawful consumption of beer, wine or alcoholic beverages in a public place; outdoor urination or defecation in a public place; the unlawful sale, furnishing, dispensing or consumption of beer, wine or alcoholic beverages; underage or unlawful possession of beer, wine, or alcoholic beverages; the unlawful deposit of litter or refuse; the damage or destruction of property without the consent of the property owner; unlawful pedestrian or vehicular traffic; standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services; unlawfully loud noise; fighting; or, any other conduct or condition that threatens injury to persons or damage to property is hereby declared to be an unlawful public nuisance.

3-2-14 DUTY TO CONTROL PREMISES. Any person who is an owner, occupant, tenant, or otherwise having any possessory control, individually or jointly with others, of any premises who either sponsors, conducts, hosts, invites, or permits a social gathering or party on said premises which is or becomes a public nuisance as defined in subsection 3-2-13 above, and which nuisance is either the intentional result of, or within the reasonable expectations of, the

person or persons having such possessory control is deemed to be in violation of this section.

3-2-15 NUISANCE PARTY – CEASE /DISPERSE. A party or social gathering that is or becomes a public nuisance as defined in subsection 3-2-13 above shall cease and disperse immediately upon the order of any county sheriff's officer; and, all persons not domiciled at the site of such social gathering or party shall leave the premises immediately. Any person who fails or refuses to obey and abide by such order shall be guilty of a violation of this section.

3-2-16 VIOLATION OF THIS SECTION. Violation of this section shall be a municipal infraction punishable by a penalty of \$100 for a person's first violation thereof and \$200 for each repeat violation. Alternatively, violation of this section can be charged by a peace officer of the City as a simple misdemeanor.

## TITLE III COMMUNITY PROTECTION

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3-321-1 DEFINITIONS. The following words and phrases, when used in this chapter, shall, for the purpose of this chapter have the meanings respectively ascribed to them in this section:

All-terrain vehicle means a motorized flotation-tire vehicle designed to travel on three (3) or more low pressure tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has seat or saddle designed to be straddled by the operator and handlebars for steering control. A vehicle designed primarily for off-road use, but not including farm tractors, construction equipment, forestry vehicles or lawn and grounds maintenance vehicles.

Alley means a thoroughfare laid out, established and platted as such by constituted authority.

Authorized emergency vehicle means vehicles of the fire department, police vehicles, ambulances and emergency vehicles owned by the United States, this state or any subdivision of this state or any municipality of the state, and such privately owned ambulances, fire, rescue or disaster vehicles as are designated or authorized by the director.

Bicycle means a device having two (2) wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

Business district means Columbus between Harrison Street and Jefferson Street; Iowa Street between New Vienna Road and Main Street; Jefferson Street between Columbus Street and the outlying boundaries of the Maquoketa River; Main Street between Fork Street and Iowa Street; New Vienna Road between Columbus Street and Iowa Street.

(Ord. 4-2, passed November 4, 2002)

Chauffeur means any person who operates a motor vehicle, including a school bus, in the transportation of persons for wages, compensation or hire, or a person who operates a truck tractor, road tractor or any motor truck which is required to be registered at a gross weight classification exceeding five (5) tons, or any such motor vehicle exempt from registration which would be within the gross weight classification if not so exempt. A person is not a chauffeur when the operation of the motor vehicle, other than a truck tractor, by the owner or operator is occasional and merely incidental to the owner's or operator's principal business. A person is not a chauffeur when the operation is by a volunteer firefighter operating fire apparatus, or is by a volunteer ambulance or rescue squad attendant operating ambulance or rescue squad apparatus. If a volunteer firefighter or ambulance or rescue squad operator receives nominal compensation not based upon the value of the services performed, the firefighter or operator shall be considered to be receiving no compensation and classified as a volunteer. A farmer or the farmer's hired help is not a chauffeur when operating a truck, other than a truck tractor, owned by the farmer, and used exclusively in connection with the transportation of the farmer's own products or property.

Crosswalk means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections, or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb means the lateral line of a sidewalk nearest the surface of the street upon which vehicles travel.

Department means the state department of transportation.

Director means the director of the state department of transportation or the director's designee.

Driver means every person who drives or is in actual physical control of a vehicle.

Explosives means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that on ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life and limb.

Farm Tractor means a motor vehicle used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Flammable liquid means any liquid which has a flash point of seventy (70) degrees Fahrenheit or less, as determined by a Tagliabue or equivalent closed cup test.

Gross weight shall mean the empty weight of a vehicle plus the maximum load to be carried thereon. The maximum load to be carried by a passenger-carrying vehicle shall be determined by multiplying one hundred fifty (150) pounds by the number of passenger seats carried by such vehicle.

Intersection means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Metal tire means every tire, the surface of which in contact with the highway, is wholly or partly of metal or other hard, nonresilient material.

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.

Motor truck means every motor vehicle designed primarily for carrying livestock, merchandise, freight of any kind, or over nine (9) persons as passengers.

Motor vehicle means every vehicle, which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails. The terms "car", "new car", "used car", or "automobile" shall be synonymous with the term "motor vehicle."

Motorcycle means every motor vehicle having a saddle or seat for the use of the rider and designed

to travel on not more than three (3) wheels in contact with the ground including a motor scooter but excluding a tractor and a motorized bicycle.

Motorized bicycle or motor bicycle means a motor vehicle having a saddle or a seat for the use of a rider and designed to travel on not more than three (3) wheels in contact with the ground, with an engine having a displacement no greater than fifty (50) cubic centimeters and not capable of operating at a speed in excess of twenty-five (25) miles per hour on level ground unassisted by human power.

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..

Off-road utility vehicle means a motorized flotation-tire vehicle, with not less than four and not more than six low pressure tires, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control.

Official parking signs mean any such signs as have been erected by authority of a public body or official having jurisdiction for the purpose of regulating parking.

Official traffic-control devices means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Official traffic-control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Operator means every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

Owner means a person, who holds the legal title of a vehicle, or in the event a vehicle is the subject of a security agreement with an immediate right of possession vested in the debtor, then such debtor shall be deemed the owner for the purpose of this chapter.

Park means the stopping or standing of a motor vehicle either attended or unattended by a driver or occupant.

Peace officer means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations, in addition to its meaning in Section 801.4, Code of Iowa.

Pedestrian means any person afoot.

Pneumatic tire means every tire in which compressed air is designed to support the load.

Private road or driveway means every way or place in private ownership and used for vehicular

travel by the owner and those having express or implied permission from the owner but not by other persons.

Restricted Residence District consists on all land area lying within the existing or amended corporate limits of the City of New Vienna, Iowa.

(Ord.3-02, Passed June 3, 2002)

Right-of-way means the privilege of the immediate use of the highway.

Roadway means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

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

Semitrailer means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. Wherever the word "trailer" is used in this chapter, same shall be construed to also include "semitrailer." A "semitrailer" shall be considered in this chapter separately from its power unit.

Snowmobile means a self-propelled vehicle weighing less than 1,000 pounds which 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 in a natural terrain. Snowmobile does not include an all-terrain vehicle which has been altered or equipped with runners, skies, belt-type tracks or treads.

1. "Operate" means to control the operation of a snowmobile.
2. "Operator" means a person who operates or is in actual control of a snowmobile.
3. "Snowmobiling" means to operate and control a snowmobile in any manner, whether or not the snowmobile is moving.

Sidewalk means that portion of street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Solid tire means every tire of rubber or other resilient materials, which does not depend upon compressed air for the support of the load.

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.

Through (or thru) highway means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided by law or such entrances are controlled by a peace officer or traffic-control signal.

Traffic means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel.

Trailer means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

U-turn means the turning from one side to the other on a street and proceeding in a reverse direction.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. "Vehicle" does not include:

1. Any device moved by human power.
2. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.
3. Any steering axle, dolly, auxiliary axle or other integral part of another vehicle, which in and of itself is incapable of commercially transporting any person or property, but is used primarily to support another vehicle.

### 3-321-2 Applicability of chapter.

1. The provisions of this chapter applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, town district, or any other political subdivision of the state, subject to specific exceptions as are set forth in the laws of Iowa and the ordinances of the city with reference to authorized emergency vehicles.

2. This chapter, except Section 3-321-277, does not apply to persons and motor vehicles and other equipment while actually engaged in work upon the surface of a highway officially closed to traffic but does apply to such persons and vehicles when traveling to or from such work. The provisions of Sections 3-321-297.2. and 3-321-294 do not apply to road workers operating maintenance equipment owned by or under lease to any state or local authority while engaged in road maintenance, road blading, snow and ice control and removal, and granular resurfacing work on a highway, whether or not the highway is closed to traffic. A chauffeur's license shall not be required for a person to operate the road construction and maintenance equipment while engaged in road construction and maintenance work, including the movement of the road construction and maintenance equipment to and from the work site under its own power.

3. Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a street shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which by their nature can have no application.

4. The provisions of this chapter relating to the operation of vehicles refers exclusively to the operation of vehicles upon streets and highways except:

a. Where a different place is specifically referred to in a given section.

b. The provisions of Article III and Section 3-321-277 of this chapter shall apply upon the streets and highways and elsewhere throughout the city.

3-321-3 to 3-321-16 RESERVED.

#### REGISTRATION, CERTIFICATION OF TITLE, AND PROOF OF SECURITY AGAINST FINANCIAL LIABILITY

3-321-17 REGISTRATION REQUIRED:

It is a misdemeanor for any person to drive or move or for an owner knowingly to permit to be driven or moved upon any street or highway any vehicle of a type required to be registered according to such laws.

3-321-18 to 3-321-31 RESERVED.

3-321-32 REGISTRATION CARD IN VEHICLE. A vehicle's registration card shall at all times be carried in the vehicle to which it refers and shall be shown to any peace officer upon the officer's request.

3-321-33 to 3-321-36 RESERVED.

3-321-37 DISPLAY OF PLATES:

1. Registration plates issued for a motor vehicle other than a motorcycle, motorized bicycle or a truck tractor shall be attached to the motor vehicle, one in the front and the other in the rear. The registration plate issued for a motorcycle or other vehicle required to be registered hereunder shall be attached to the rear of the vehicle. The registration plate issued for a truck tractor shall be attached to the front of the truck tractor. The special plate issued to a dealer shall be attached on the rear of the vehicle when operated on the roadways of this State.

2. It is unlawful for the owner of a vehicle to place any frame around or over the registration plate, which does not permit full view of all numerals and letters printed on the registration plate.

3-321-38 METHOD OF ATTACHING PLATES: Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than twelve inches (12") from the ground, measuring from the bottom of the plate, in a place and position to be clearly visible and shall be

maintained free from foreign materials and in a condition to be clearly legible. An imitation plate or plates imitating or purporting to imitate the official registration plate of any other state or territory of the United States or of any foreign government shall not be fastened to the vehicle.

3-321-39 to 3-321-77 RESERVED.

#### SPECIAL ANTITHEFT LAW

3-321-78 VANDALISM:

1. Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a misdemeanor.

2. Any person who with intent to commit any malicious mischief, injury, or other crime climbs into or upon a vehicle whether it is in motion or at rest or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended is guilty of a misdemeanor.

3-321-79 to 3-321-97 RESERVED.

#### DRIVER'S LICENSES AND REGISTRATION

3-321-98 OPERATION WITHOUT REGISTRATION.

1. A person shall not operate, and an owner shall not knowingly permit to be operated upon any highway any vehicle required to be registered and titled hereunder unless there shall be attached thereto and displayed thereon when and as required by chapter 321 of the Iowa Code a valid registration card and registration plate or plates issued therefor for the current registration year and unless a certificate of title has been issued for such vehicle except as otherwise expressly permitted in chapter 321 of the Iowa Code.

(Amended during 2009 codification)

3-321-99 to 3-321-173 RESERVED.

3-321-174 OPERATOR'S LICENSE - OPERATION OF COMMERCIAL MOTOR VEHICLES:

1. A person, except those expressly exempted, shall not operate any motor vehicle upon any street of this City unless the person has a driver's license issued by the Department valid for the vehicle's operation.

2. A person operating a commercial motor vehicle shall not have more than one driver's license. A nonresident may operate a commercial motor vehicle in Iowa if the nonresident has been issued a license by another state, a nonresident commercial driver's license, or a driver's license issued by a foreign jurisdiction which the Federal highway administration has determined to be issued in conformity with the Federal commercial driver testing and licensing standards, if the

license, commercial driver's license, or driver's license is valid for the vehicle operated.

3. Every licensee shall have an operator or instruction permit in immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a judicial magistrate or District Associate Judge, a peace officer, or a field deputy or examiner of the Department. However, no person charged with violating this provision shall be convicted if such person produces in court, within a reasonable time, an operator or instruction permit theretofore issued to such person, and valid at the time of such person's arrest.

4. A person shall not operate a motor vehicle upon a City street with an expired driver's license.

3-321-175 to 3-321-192 RESERVED.

3-321-193 RESTRICTED LICENSES.

1. The Department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

2. The Department shall not require a person issued a valid operator's or chauffeur's license to comply with any other licensing requirements in order to operate a motorized bicycle.

3. It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to such person.

3-321-194 to 3-321.215 RESERVED.

LICENSEES AND NONOPERATORS IDENTIFICATION CARDS - VIOLATIONS

3-321-216 UNLAWFUL USE OF LICENSE:

It is a simple misdemeanor for any person:

1. To display or cause a permit to be displayed or have in the person's possession any canceled, revoked, suspended, fictitious or fraudulently altered temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license or chauffeur's license.

2. To lend that person's temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license or chauffeur's license to any other person or knowingly permit the use thereof by another.

3. To display or represent, as one's own any temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's license not issued to that person.

4. To fail or refuse to surrender to the Department upon its lawful demand any temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license or chauffeur's license, which has been suspended, revoked or canceled.



5. To use a false or fictitious name in any application for a temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

6. To permit any unlawful use of a temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license or chauffeur's license issued to him.

7. To obtain, possess or have in one's control or on one's premises blank motor vehicle license forms.

3-321-217 to 3-321.218. RESERVED.

3-321-219 PERMITTING UNAUTHORIZED MINOR TO DRIVE. No person shall cause or knowingly permit such person's child or ward under the age of eighteen (18) years to drive a motor vehicle upon any street when such minor is not authorized according to law.

3-321-220 PERMITTING UNAUTHORIZED PERSON TO DRIVE. A person shall not knowingly authorize or permit a motor vehicle owned by the person or under the person's control to be driven upon a highway by a person who is not issued a driver's license valid for the vehicle's operation.

3-321-221 EMPLOYING UNLICENSED CHAUFFEUR. No person shall employ as a chauffeur of a motor vehicle any person not then licensed as provided by law.

3-321-222 RENTING MOTOR VEHICLE TO UNLICENSED PERSONS. No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed according to the laws of the state, or in the case of a nonresident, then duly licensed under the laws of the state or county of such person's residence except a nonresident whose home state or county does not require that an operator be licensed.

3-321-223 INSPECTION OF LICENSE PRIOR TO RENTING. No person shall rent a motor vehicle to another until such person has inspected the operator's or chauffeur's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in such person's presence.

3-321-224 RECORDS OF RENTALS. Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person and the date and place when and where said license was issued. Such record shall be open to inspection by any peace officer, as defined in Section 801.4, subsection 7, paragraphs "a," "b," "c" and "h" of the Code of Iowa, or employee of the department.

3-321-225 to 3-321-228 RESERVED.

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

3-321-229 OBEDIENCE TO PEACE OFFICERS REQUIRED. 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.

3-321-230 RESERVED.

3-321-231 PRIVILEGES OF AUTHORIZED EMERGENCY VEHICLES.

1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section.

2. The driver of any authorized emergency vehicle may:

a. Park or stand an authorized emergency vehicle, irrespective of the provisions of this Code.

b. Disregard laws or regulations governing direction of movement for the minimum distances necessary before an alternative route that conforms to the traffic laws and regulations is available.

3. The driver of a fire department vehicle, police vehicle or ambulance may:

a. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operations.

b. Exceed the maximum speed limits so long as the driver does not endanger life or property.

4. The exemptions granted to an authorized emergency vehicle under subsection (b) and for fire department vehicle, police vehicle or ambulance as provided in subsection (c) shall apply only when such vehicle is making use of an audible signaling device, or a visual signaling device except that use of an audible or visual signaling device shall not be required when exercising the exemptions granted under subsection (c)(2), of this section when the vehicle is operated by a peace officer pursuing a suspected violator of the speed restrictions imposed by or pursuant to this Code, for the purpose of determining the speed of travel of such suspected violator.

5. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

3-321-232 to 3-321-233 RESERVED.

3-321-234 BICYCLE REGULATIONS.

1. Traffic code applies to persons riding bicycles. 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

drivers of vehicles - by the laws of this state regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

2. Riding on roadways and bicycle paths. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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

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

3. Speed. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

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

4. Riding on bicycles. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

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

5. 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[4])

6. Emerging from alley or driveway. The operators 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 the 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])

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

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

8. PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, 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])

9. RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

When signs are erected on a sidewalk or roadway prohibiting the riding of bicycles on the sidewalk or roadway, no person shall disobey such signs.

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

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

10. Lamps and other equipment on bicycles. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with 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 head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(Code of Iowa, Sec. 321.397)

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

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

This section does not apply to the use of a bicycle in a parade authorized by proper permit from local authorities.

#### ALL TERRAIN VEHICLES, SNOWMOBILES AND SNOWMOBILING

3-321-234A GENERAL REGULATIONS. No person shall operate an all-terrain vehicles, off-road motorcycle or off road utility vehicle within the City in violation of Chapter 3211 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. 321 G & Ch 3211)

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

1 All terrain vehicles- highway use. All-terrain vehicles shall be operated on a roadway only between sunrise and sunset and only when the operation on the roadway is incidental to the vehicle's use for agricultural purposes. A person operating an all-terrain vehicle on a roadway shall have a valid operator's license and the vehicle shall be operated at speeds of less than thirty (30) miles per hour. When operated on a roadway, an all-terrain vehicle shall have a bicycle safety flag which extends not less than five feet above the ground attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty (30) square inches, be dayglow in color, and shall be in lieu of the reflective equipment required by Section 321.383 of the Code of Iowa.

3-321-234B AUTHORITY TO ESTABLISH AND POST AREAS OF OPERATION AND PARKING. The city council is authorized to designate and establish by appropriate signs for a snowmobile parking area within the City limits and to post signs prohibiting snowmobile access within the City limits. All posting will be in accordance with all other provisions related to this Chapter.

3-321-234C DESIGNATED SNOWMOBILE PARKING AREA. The city council shall establish and designate by suitable posting, parking spaces on a municipally owned parking lot or property designating a parking area or space for snowmobiles.

"Designated Parking Area" shall be posted on a municipal owned parking lots or property, located east and south of the intersection of South Columbus Street (State Highway 136) and South Wentle Road.

Access to "Designated Snowmobile Parking Area" within the City limits may be obtained by entering from the south of the city limits, at State Highway 136 and Lukan Road. Snowmobile operators are to continue north along Lukan Road until reaching the intersection of Lukan Road and Wentle Road. Snowmobile operators are to then drive on the southwest side Wentle Road to enter snowmobile-parking area. Existing the snowmobile-parking area will be the same in reverse.

1. It shall be unlawful to park any snowmobile in any "Designated Snowmobile Parking Area" in such a position that the same shall not be entirely within such parking area or in such a manner that it shall obstruct the free movement of snowmobiles within the parking area.

2. It shall be unlawful to park any snowmobile in any area within the city limits other than in a designated parking area with the exception as stated in Sec. 3-321-234D.

3-321-234D PERMITTED AREAS OF OPERATION. Snowmobiles shall not be allowed to operate within the City with the exception that a snowmobile may be driven:

1. From its place of storage in the City to the City limits. However, in such case the snowmobile shall be driven to the City limits on City streets by the most direct route possible and in accordance with all other provisions related to snowmobiles in this Chapter.

2. From its place of storage in the City or from the City limits to "Designated Snowmobile Parking Area" (located east and south of the intersection of South Columbus Street (State Highway 136) and South Wentle Road.) for the purpose of parking the snowmobile. However, in such case the snowmobile shall be driven to the parking area on City streets by the most direct route possible and in accordance with all other provisions related to snowmobiles in this Chapter.

(Ord. 3-97, Passed December I, 1997)

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

3-321-234E REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.

2. On public school grounds, park property, playgrounds and recreational areas without express permission to do so by the proper public authority.

3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.

5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

6. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license, or an instruction permit and accompanied by a qualified licensed driver.

7. While traveling in the City, the speed of a snowmobile shall not exceed 10 mph.

8. No person shall operate a snowmobile in the City from two o'clock (2:00) a.m. to seven o'clock (7:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

(Ord. 3-97, Passed December 1, 1997)

3-321-234F EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

2. Adequate brakes in good condition and at least one headlight and one taillight.

3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-321-234G UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-321-234H RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-321-234I TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

3-321-234J NEGLIGENCE. The owner and operator of an All-terrain vehicle or snowmobile

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

3-321-234K ACCIDENT REPORTS. If an All-terrain vehicle or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state. If the accident occurred on public land or ice under the jurisdiction of the commission, the operator shall file with the commission a report of the accident, within seventy-two hours, containing information as the commission may require.

3-321-235 RESERVED.

3-321-236 PARKING SIGNS REQUIRED. Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the City maintenance person to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Ord. 3-90, Passed April 2, 1990)

#### POWERS OF LOCAL AUTHORITIES

3-321-237 POSTING REQUIRED.

No traffic regulation, establishing regulations for specific streets, or portions thereof, within the city, shall be effective until signs giving notice of such regulations as called for are posted upon or at the entrances to the street or part thereof affected. The City Council is hereby authorized to post signs or direct the placement of signs consistent with this Chapter.

3-321-238 to 3-321-248 RESERVED.

3-321-249 SCHOOL ZONES - RESERVED.

3-321-250 to 3-321-255 RESERVED.

#### TRAFFIC SIGNS, SIGNALS, AND MARKINGS

3-321-256 OBEDIENCE TO OFFICIAL TRAFFIC-CONTROL DEVICES.

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.

3-321-257 OFFICIAL TRAFFIC-CONTROL SIGNALS.

1. For the purposes of this section, "stop at the official traffic-control signal," means stopping at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection.

2. Official traffic-control signals consisting of colored lights shall regulate vehicle and pedestrian traffic in the following manner:

a. A "flashing circular red" light means vehicular traffic shall stop and after stopping may proceed cautiously through the intersection yielding to all vehicles not required to stop or yield which are within the intersection or approaching so closely as to constitute a hazard, but then may proceed.

b. A "flashing yellow" light means vehicular traffic shall proceed through the intersection or past such signal with caution.

3-321-258 RESERVED.

3-321-259 UNAUTHORIZED SIGNS, SIGNALS OR MARKINGS

1. No person shall place, maintain, or display upon or in view of any street or highway any sign, signal, marking, or device which purports to be or is an imitation of or resembles an official parking sign, curb or other marking, traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, if such sign, signal, marking, or device has not been authorized by the Department and City with reference to streets and highways under their jurisdiction and no person shall place or maintain nor shall any public authority permit upon any street or highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information of a type that cannot be mistaken for official signs.

2. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the street or highway is hereby empowered to remove the same or cause it to be removed without notice.

3-321-260 INTERFERENCE WITH SIGNS, SIGNALS OR DEVICES; UNLAWFUL POSSESSION.

1. It shall be unlawful for any person to willfully and intentionally, without lawful authority, attempt to or in fact, alter, deface, injure, knock down, or remove any official traffic-control device, any authorized warning sign or signal or barricade, whether temporary, or permanent, any railroad sign or signal, any inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof.

2. It shall be unlawful for any person to have in such person's possession any official traffic-control device except by reason of such person's employment.

3-321-261 RESERVED.



## ACCIDENTS.

3-321-262 DUTY OF DRIVER WHEN DAMAGE IS TO VEHICLE ONLY. The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 3-321-263 of this Article. Every such stop shall be made without obstructing traffic more than is necessary.

### 3-321-263 DUTY OF DRIVER TO GIVE INFORMATION, AID.

1. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give such driver's name, address, and the registration number of the vehicle such driver is driving and shall, upon request, and if available, exhibit such driver's operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

2. If the accident causes the death of any person, the surviving driver shall not leave the scene of the accident except to seek necessary aid for himself or to report the accident to law enforcement authorities. Before leaving the scene of the accident, the surviving driver shall leave such driver's automobile registration receipt or other identification data at the scene of the accident. After leaving the scene of the accident, the surviving driver shall promptly report the accident by telephone to law enforcement authorities, and shall immediately return to the scene of the accident, or shall inform the authorities where such driver can be located.

3-321-264 DUTY OF DRIVER UPON STRIKING UNATTENDED VEHICLE. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and of the owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

3-321-265 DUTY OF DRIVER UPON STRIKING FIXTURES UPON THE HIGHWAY. The driver of any vehicle involved in an accident resulting in damage to property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner, a peace officer or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle causing the damage and shall upon request, and if available, exhibit the driver's, operator's or chauffeur's license and shall make report of such accident when and as required in Section 3-321-266 of this Article.

### 3-321-266 REPORTS REQUIRED:

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately, by the quickest means of communication, give notice of such accident to the Chief of Police.

2. The driver of a vehicle involved in an accident resulting in total property damage to an apparent extent of one thousand dollars (\$1,000.00) or more shall report said accident to the Police Department within seventy two (72) hours.

3. Every peace officer, who, in the regular course of duty, investigates a motor vehicle accident of which a report must be made as required in this Section, either at the time of and at the scene of the accident or thereafter by interviewing witnesses shall, within twenty four (24) hours after completing such investigation, file a written report of such accident.

4. Any carrier transporting hazardous materials by rail, air, water or upon a roadway in this City, in the case of accident, shall immediately notify the Chief of Police.

3-321-267 to 3-321-274 RESERVED.

## OPERATION OF MOTORCYCLES AND MOTORIZED BICYCLES

### 3-321-275 MOTORCYCLES AND MOTORIZED BICYCLES.

1. General. The motor vehicle laws apply to the operators of motorcycles and motorized bicycles to the extent practically applicable.

2. Riders:

a. Motorized bicycles. A person operating a motorized bicycle shall not carry any other person on the vehicle.

b. Motorcycles. A person shall not operate or ride a motorcycle with another person on the motorcycle unless the motorcycle is designed to carry more than one person. The additional passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the motorcycle at the rear of the operator. The motorcycle shall be equipped with footrests for the passenger unless the passenger is riding in a sidecar or enclosed cab. The motorcycle operator shall not carry any person nor shall any other person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

3. Sitting position. A person operating a motorcycle or motorized bicycle shall ride only upon the vehicle's permanent and regular attached seat. Every person riding upon the vehicle shall be sitting astride the seat, facing forward with one leg on either side of the vehicle.

4. Use of traffic lanes. Persons shall not operate motorcycles or motorized bicycles more than two (2) abreast in a single lane. Except for persons operating such vehicles two (2) abreast, a motor vehicle shall not be operated in a manner depriving a motorcycle or motorized bicycle operator of the full use of a lane. A motorcycle or motorized bicycle shall not be operated between lanes of traffic or between adjacent lines or rows of vehicles. The operator of a motorcycle or

motorized bicycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken unless the vehicle being overtaken is a motorcycle or motorized bicycle.

5. Headlights on. A person shall not operate a 1977 or later model year motorcycle or any model year motorized bicycle upon the highways without displaying at least one lighted headlamp of the type described in Section 3-321-409 of the Code. However, this subsection is subject to the exceptions with respect to parked vehicles as provided in this chapter.

6. Packages. The operator of a motorcycle or motorized bicycle shall not carry any package, bundle, or other article, which prevents the operator from keeping both hands on the handlebars.

7. Handlebars. A person shall not operate a motorcycle or motorized bicycle with handlebars more than fifteen (15) inches in height above that portion of the seat occupied by the operator.

8. Parades. The provisions of this section do not apply to motorcycles or motorized bicycles when used in a parade authorized by proper permit from local authorities.

#### 3-321-275A USE OF BICYCLES, MOTORCYCLES, ETC. IN PARKS.

1. The use of bicycles, skateboards, and other nonmotorized conveyances, and motorcycles, motor scooters, go carts, cars, trucks and other motor driven vehicles other than those vehicles engaged in authorized park maintenance and security in any park, recreation facility, or trail may be prohibited by the city council.

2. It shall be unlawful for the operator of any car, truck, motorcycle or any other type vehicle to stop, stand or park upon any roadway or in any parking areas in any park, recreation facility, or trail in such manner as to obstruct the flow of traffic.

3. It shall be unlawful for any person or persons to play games, catch, throwing of frisbees or other objects, gathering in groups on any roadway or parking areas in any park, recreation facility, or trail as to obstruct the flow of traffic.

4. It shall be unlawful to park any car, truck, motorcycle or other type of vehicle along any roadway or area in any park or recreation facility that is posted prohibiting such parking.

5. It shall be unlawful for any car, truck, motorcycle or any other type of motorized vehicle to drive on and/or park on any grass area, sidewalk or trail in any park, recreation facility, or trail except with the express permission of the Public Works Department.

#### 3-321-276 USE OF CERTAIN NONMOTORIZED VEHICLES, CONVEYANCES AND EQUIPMENT IN MUNICIPAL PARKING LOTS AND IN CERTAIN OTHER PLACES IN THE CITY.

1. No person shall be upon and make use of roller skates, skateboards, bicycles, or other wheeled recreational vehicles, or conveyances within any municipal parking lot. This provision shall not apply to use of a wheelchair or other similar conveyance when used for transportation by any temporarily or permanently handicapped person, or to a wagon being pulled by a pedestrian at

a walking speed.

2. No person shall use roller skates, skateboards, wagons, or other wheeled or nonmotorized recreational vehicles, with the exception of bicycles, upon the roadway portion of any right of way, except that a person may use any of the above proscribed conveyances in any marked or unmarked crosswalk. Any person using any of the above proscribed conveyances in crossing a roadway at a place other than a marked or unmarked crosswalk shall be subject to the requirements set forth in section 3-321-328 of this article.

3. The city council is hereby authorized to designate and post signs in areas where skateboarding, skating and riding bicycles and scooters is prohibited. No person shall skateboard, skate or ride a bicycle or a scooter in any such area.

4. The provisions of this section shall not apply to the above proscribed conveyances when used in any parade, exhibition, or gathering of persons which has been authorized by permit from the city council.

5. The scheduled fine for a violation of this section shall be twenty five dollars (\$25.00).

#### CRIMINAL OFFENSES

3-321-277 RECKLESS DRIVING. Any person who drives any vehicle in such manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving.

3-321-277A CARELESS DRIVING. A person commits careless driving if the person intentionally operates a motor vehicle on a public road or highway in any one of the following ways:

Creates or causes unnecessary tire squealing, skidding, or sliding upon acceleration or stopping.

Simulates a temporary race.

Causes any wheel or wheels to unnecessarily lose contact with the ground.

Causes the vehicle to unnecessarily turn abruptly or sway.

3-321-278 DRAG RACING PROHIBITED. No person shall engage in any motor vehicle speed contest or exhibition of speed on any street or highway of this state and no person shall aid or abet any motor vehicle speed contest or speed exhibition on any street or highway of this state, except that a passenger shall not be considered as aiding or abetting. "Motor vehicle speed contest or exhibition of speed" is defined as one or more persons competing in speed in excess of the applicable speed limit in vehicles on the public streets or highways.

3-321-279 to 3-321-284 RESERVED.

#### SPEED RESTRICTIONS

3-321-285 LIMITS GENERALLY.

1. Any person driving a motor vehicle on any street of this city shall drive the same at a careful and prudent speed not greater than or less than is reasonable and proper, having due regard to the traffic, surface and width of the streets and of any other conditions then existing, and no person shall drive any vehicle at a speed greater than will permit such person to bring it to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using such streets will observe the law.

2. The following shall be lawful speeds except as otherwise provided in subsection (c) of this section or elsewhere in this code or other ordinance of the city, and any speed in excess thereof shall be unlawful:

a. Twenty (20) miles per hour in any business district.

b. Twenty five (25) miles per hour in any residential or school district.

c. Forty (40) miles per hour for any motor vehicle drawing another vehicle in any district or on any street where the lawful speed is in excess of forty (40) miles per hour, except when otherwise specified under section 321.285 of the state code.

3. When signs are erected giving notice thereof, the following shall be the lawful speed on the streets or portions thereof designated herein:

TWENTY FIVE (25) MILES PER HOUR

Church Street, from North Columbus Street (State Highway 136) to North Washington Street.

East Jackson Street, from North Columbus Street (State Highway 136) to North Maquoketa Street.

West Jackson Street, from North Columbus Street (State Highway 136) to West View Street.

East Harrison Street, from North Columbus Street (State Highway 136) to New Vienna Road.

West Harrison Street, from North Columbus Street (State Highway 136) to North Fork Street.

West Mill Street, from North Columbus Street (State Highway 136) to North Fork Street.

New Vienna Road, from North Columbus Street (State Highway 136) to Easterly City Limits.

East Main Street, from North Columbus Street (State Highway 136) to its terminus.

West Main Street, from North Columbus Street (State Highway 136) to Westerly City Limits.

East Water Street, from South Columbus Street (State Highway 136) to South Iowa Street.

West Water Street, from South Columbus Street (State Highway 136) to South Fork Street.

West Jefferson Street, from South Columbus Street (State Highway 136) to South Washington Street.

Smith Street, from Wentte Road to Country Drive.

Hoeger Lane, from Wentte Road to its terminus.

Nabor Street, from Country Drive to its terminus.

Wentte Road, from South Columbus Street (State Highway 136) to Easterly City Limits.

Elmhurst Street, from Pleasant View Drive to its terminus.

Plumbwood Street, from Pleasant View Drive to its terminus.

Red Oak Street, from Pleasant View Drive to its terminus.

Columbus Street, from Pleasant View Drive to its terminus.

Columbus Street (State Highway 136), from 7186 South Columbus Street to 7512 North

Columbus Street (State Highway 136).

South Iowa Street, from East Water Street to East Main Street.

North Iowa Street, from East Main Street to its terminus.

Maquoketa Street, from New Vienna Road to East Jackson Street.

Country Drive, from Wentte Road to Smith Street.

Sunrise Court, from Wentte Road to its terminus.

Pleasant View Drive, from South Columbus Street (State Highway 136) to its terminus.

Columbus Street, from South Columbus Street (State Highway 136) to its terminus.

South Washington Street, from West Jefferson Street to West Main Street.

North Washington Street, from West Main Street to Church Street.

South Fork Street, from West Water Street to West Main Street.

North Fork Street, from West Main Street to its terminus.

West View Street, from West Main Street to West Jackson Street.

THIRTY FIVE (35) MILES PER HOUR

Columbus Street (State Highway 136), from 7512 North Columbus Street (State Highway 136) to 7616 North Columbus Street (State Highway 136).

Columbus Street (State Highway 136), from 7186 South Columbus Street (State Highway 136) to 7025 South Columbus Street (State Highway 136).

#### FORTY FIVE (45) MILES PER HOUR

Columbus Street (State Highway 136), from 7616 North Columbus Street (State Highway 136) to Northerly City Limits.

Columbus Street (State Highway 136), from 7025 South Columbus Street (State Highway 136) to 6835 South Columbus Street (State Highway 136).

4. Scheduled fines are established pursuant to Iowa Code section 805.6(6).

Excessive speed in zones fifty five (55) mph or less:

- (1) 1 through 5 over
- (2) 6 through 10 over
- (3) 11 through 15 over
- (4) 16 through 20 over
- (5) Over 20 mph over (plus \$2.00 for each mile in excess of 20 mph over limit)

Excessive speed in zones greater than fifty five (55) mph:

- (6) 1 through 5 over
- (7) 6 through 10 over
- (8) 11 through 15 over
- (9) 16 through 20 over
- (10) Over 20 mph over (plus \$5.00 for each mile in excess of 20 mph over limit)

3-321-286 to 3-321-287 RESERVED.

3-321-288 CONTROL OF VEHICLE.

1. A person operating a motor vehicle shall have the same vehicle under control at all times.
2. A person operating a motor vehicle shall reduce the speed to a reasonable and proper rate:
  - a. When approaching and passing a person walking in the traveled portion of the public street.
  - b. When approaching and passing an animal which is being led, ridden or driven upon a public street.

c. When approaching and traversing a crossing or intersection of public streets, or a bridge, sharp turn, curve or steep descent, in a public street.

d. When approaching and passing a fusee, flares, red reflector electric lanterns, red reflectors or red flags, or an emergency vehicle displaying a revolving or flashing light.

e. When approaching and passing a slow moving vehicle displaying a reflective device as provided by section 321.383, code of Iowa.

f. When approaching and passing through a sign posted construction or maintenance zone upon the public highway.

3-321-289 SIGNS TO BE ERECTED. On a street on which the rate of speed changes, other than primary roads and extensions of primary roads, there shall be erected by the city suitable standard signs showing the points at which the rate of speed changes on such street and the maximum rate of speed in the district which the vehicle is entering.

3-321-290 RESERVED.

3-321-291 SPEEDING VIOLATION FORM. In every charge of violation of section 3-321-285 of this division, the information, also the notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location.

3-321-292 to 3-321-293 RESERVED.

3-321-294 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. Peace officers are hereby authorized to enforce this provision by direction to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with directions of an officer in accordance herewith the continued slow operation by a driver shall be punishable as provided in section 1-8 of this code.

3-321-295 to 3-321-296 RESERVED.

#### DRIVING ON RIGHT SIDE OF ROADWAY- OVERTAKING AND PASSING

3-321-297 DRIVING ON RIGHT-HAND SIDE OF ROADWAY; EXCEPTIONS.

1. A vehicle shall be driven upon the right half of the roadway upon all roadways of sufficient width, except as follows:

a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

b. When an obstruction exists making it necessary to drive to the left of the center of the roadway, provided, any person so doing shall yield the right-of-way to all vehicles traveling in the



proper direction upon the unobstructed portion of the roadway within such distance as to constitute an immediate hazard.

c. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon.

d. Upon a roadway restricted to one-way traffic.

2. Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic upon all roadways, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection, an alley, private road or driveway.

3-321-298 MEETING AND TURNING TO RIGHT. Except as otherwise provided in section 3-321-297 of this article vehicles or persons on horseback meeting each other on any roadway, shall yield one-half (1/2) of the roadway by turning to the right.

3-321-299 PASSING GENERALLY. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

1. Except on one-way streets, the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on an audible signal and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

3. Any driver of a vehicle that is overtaken by a faster moving vehicle who fails to heed the signal of the overtaking vehicle when it is given under such circumstances that such driver could by the exercise of ordinary care and observation and precaution, hear such signal and who fails to yield that part of the traveled way as herein provided, shall be guilty of a misdemeanor.

4. Upon proof that a signal was given as contemplated by subsection (3) of this section, the burden shall rest upon the accused to prove that the accused did not hear such signal.

3-321-300 to 3-321-301 RESERVED.

3-321-302 OVERTAKING, PASSING ON THE RIGHT.

1. The driver of a vehicle may overtake and pass upon the right of another vehicle, which is making or about to make a left turn.

2. The driver of a vehicle may overtake, and, allowing sufficient clearance, pass another vehicle proceeding in the same direction either upon the left or upon the right on a roadway with unobstructed pavement of sufficient width of four (4) or more lanes of moving traffic when such

movement can be made in safety. No person shall drive off the pavement or upon the shoulder, curb or parking of the roadway in overtaking on the right.

3-321-303 LIMITATIONS ON OVERTAKING ON THE LEFT. Except on one-way streets, a vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of a vehicle approaching from the opposite direction or a vehicle overtaken. The overtaking vehicle shall return to the right hand side of the roadway before coming within three hundred feet (300') of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit in excess of thirty (30) miles per hour, and the overtaking vehicle shall return to the right hand side of the roadway before coming within one hundred feet (100') of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit of thirty (30) miles per hour or less.

3-321-304 PROHIBITED PASSING. No vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed for a distance of approximately seven hundred feet (700').

2. When approaching within one hundred feet (100') of any narrow bridge, viaduct, or tunnel, when so signposted, or when approaching within one hundred feet (100') of or traversing any intersection or railroad grade crossing.

3. Where official signs are in place directing that traffic keep to the right or a distinctive centerline or off centerline is marked, which distinctive line also so directs traffic as declared in the sign manual adopted by the department of transportation.

3-321-305 to 3-321-306 RESERVED.

3-321-307 FOLLOWING TOO CLOSELY. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the street.

3-321-308 to 3-321-310 RESERVED.

#### TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

3-321-311 TURNING AT INTERSECTIONS. The driver of a vehicle intending to turn at an intersection shall do as follows:

1. Both the approach for a right turn and a right turn shall be made as closely as practicable to the right hand curb or edge of the roadway and in such a manner as to leave the intersection as nearly as practicable in the right hand lane lawfully available to traffic moving in the direction of traffic of such vehicle.

2. At any intersection where traffic is permitted to move in both directions on each intersecting street, an 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. At any intersection where traffic is restricted to one direction on one or more of the intersecting streets, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection as nearly as practicable in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

4. Where the special circumstances require, the city council may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at any intersection, 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.

5. "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

3-321-312 TURNING ON CURVES, HILLS. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or on the approach to, or near the crest of, a grade or hill, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet (500').

3-321-313 STARTING PARKED VEHICLE. No person shall start a vehicle, which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

3-321-314 SIGNALS REQUIRED WHEN TURNING. No person shall turn a vehicle from a direct course upon a street unless and until such movement can be made with reasonable safety and then only after giving a clearly audible signal by sounding a horn if any pedestrian may be affected by such movement or after giving an appropriate signal in the manner hereinafter provided in the event any other vehicle may be affected by such movement.

3-321-315 TURN SIGNAL TO BE CONTINUOUS. A signal of intention to turn right or left shall be given continuously during not less than the last one hundred feet (100') traveled by the vehicle before turning.

3-321-316 SIGNAL REQUIRED WHEN STOPPING OR DECREASING SPEED SUDDENLY. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this article to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

3-321-317 SIGNALS TO BE BY HAND AND ARM OR SIGNAL DEVICE.

1. The signals required under the provisions of this article may be given either by means of

the hand and arm as provided in section 3-321-318 of this article, or by mechanical or electrical directional signal device or light of a type approved by the state department of public safety.

2. When a vehicle is equipped with a directional signal device, such device shall at all times be maintained in good working condition. No directional signal device shall project a glaring or dazzling light. All directional signal devices shall be self-illuminated when in use while other lamps on the vehicle are lighted.

3-321-318 METHOD OF GIVING HAND AND ARM SIGNALS. All signals required under this article, which may be given by hand, and arm shall, when so given, be given from the left side of a vehicle and the following manner and interpretation thereof is suggested:

- 1 Left Turn: Hand and arm extended horizontally.
2. Right turn: Hand and arm extended upward.
- 3 Stop or Decrease Of Speed: Hand and arm extended downward.

#### RIGHT-OF-WAY

3-321-319 ENTERING INTERSECTIONS FROM DIFFERENT HIGHWAYS.

1. When two (2) vehicles enter an intersection from different highways or public streets at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

2. The foregoing rule is modified at through highways and otherwise as provided in this chapter and chapter 321 of the Iowa Code.

3-321-320 LEFT TURNS AT INTERSECTIONS. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to all vehicles approaching from the opposite direction which are within the intersection or so close thereto as to constitute an immediate hazard. Then said driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn.

3-321-321 ENTERING THROUGH STREETS.

1. Except where yield signs or official traffic control signals are erected, the driver of a vehicle shall stop or yield as required by this chapter at the entrance to a through street and shall yield the right of way to other vehicles which have entered the intersection from such through street or which are approaching so closely on such through street as to constitute a hazard, but such driver having so yielded may proceed cautiously and with due care enter such through street.

2. The following streets are designated as through streets: Columbus Street (Highway 136), Main Street and New Vienna Road.

3-321-322 STOP AND YIELD INTERSECTIONS.

1. Stop intersections.

a. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right of way to any vehicle on the intersecting roadway, which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

b. Those intersections designated are hereby declared to be "stop intersections" for all purposes of this section. Vehicles bound in the direction indicated must stop before entering the designated intersection.

NORTHBOUND

North Iowa Street and New Vienna Road.

South Washington Street and West Water Street.

North Iowa Street and East Main Street.

South Washington St at West Main Street.

(Amended during 2021 codification)

SOUTHBOUND

North Iowa Street and New Vienna Road.

West View Street and West Main Street.

Country Drive and Wente Road.

Sunrise Court and Wente Road.

South Iowa St and Harrison Street.

South Fork St. and West Main Street.

North Iowa St. and East Harrison Street.

North Washington St and West Main Street.

Smith St. and Wente Road.

(Amended during 2021 codification)

EASTBOUND

Church Street and North Columbus St.

West Jackson Street and North Columbus St.

West Harrison Street and North Columbus St.

West Mill Street and North Columbus St.

West Main Street and South Columbus St.

West Water Street and South Columbus St.

West Jefferson Street and South Columbus St.

Pleasant View Drive and South Columbus St.

East Harrison St and New Vienna Road.

West Harrison St. and South Iowa.

East Harrison And North Washington

West Jackson St. and South Washington Street.

West Mill St. and North Washington Street.

(Amended during 2021 codification)

#### WESTBOUND

East Jackson Street and North Columbus Street.

East Harrison Street and North Columbus Street.

New Vienna Road and North Columbus Street.

East Main Street and South Columbus Street.

East Water Street and South Columbus Street.

Wente Road and South Columbus Street.

West Harrison St. and North Iowa Street.

West Harrison St. and South Washington Street.

East Jackson St. and North Washington Street.

East Mill St. and North Washington Street.

(Amended during 2021 codification)

2. Yield Intersections - Reserved

(Amended during 2021 codification)

3-321-322A STOP SIGNS TO BE ERECTED AT ENTRANCES TO THROUGH STREETS AND STOP INTERSECTIONS; STOP REQUIRED. Stop signs shall be erected at entrances to through streets and at one or more entrances to stop intersections. Every driver of a vehicle shall stop at such sign or at a clearly marked stop line before entering an intersection, except when directed to proceed by a peace officer or traffic control signal.

3-321-323 BACKING VEHICLE ON HIGHWAY. No person shall operate a vehicle on any street or highway in reverse gear unless and until such operation can be made with reasonable safety, and shall yield the right of way to any approaching vehicle on the street or highway or intersecting street or highway thereto which is so close thereto as to constitute an immediate hazard.

3-321-324 OPERATION ON APPROACH OF EMERGENCY VEHICLES.

1. Upon the immediate approach of an authorized emergency vehicle with any lamp or device displaying a red light, or an authorized emergency vehicle of a fire department displaying a blue light, or when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. For the purposes of this section, "red light" or "blue light" means a light or lighting device that, when illuminated, will exhibit a solid flashing or strobing red or blue light.

2. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

3-321-324A FUNERAL PROCESSIONS.

1. General. A funeral procession shall consist of those vehicles necessary to transport the deceased, employees of the funeral home, and family members and friends of the deceased.

2. All vehicles operated in a funeral procession shall have the headlights on and in a low beam distribution.

3. All vehicles operated in a funeral procession shall display a flag or other device containing the word "funeral." This device shall be placed on top of the left front fender, roof, or on both sides of the vehicle in such a manner as to be easily seen by other drivers.

4. Intersections and private roads:

a. A funeral procession, which approaches an intersection, provided with a traffic signal

which displays a red signal shall stop and remain stopped until the signal is green. A funeral procession, which enters intersection with, a green signal may continue without stopping until the last vehicle in the procession has cleared the intersection; unless otherwise directed by a police officer.

b. A funeral procession which approaches an intersection provided with a stop sign shall stop and yield the right-of-way to those vehicles which are approaching so close as to constitute a hazard. The funeral procession may then enter and proceed through the intersection without stopping until the last vehicle in the procession has cleared the intersection; unless otherwise directed by a police officer.

c. A funeral procession, which approaches an intersection provided with a yield sign, shall reduce speed and stop if necessary to yield the right-of-way to vehicles, which are approaching so close to constitute a hazard. Having so yielded, a funeral procession may enter the intersection and proceed without stopping until the last vehicle in the procession has cleared the intersection, unless otherwise directed by a police officer.

d. A funeral procession which is emerging from a private roadway, alley, driveway, or building shall stop immediately prior to entering the sidewalk area and shall proceed into the sidewalk area only when there exists no danger to pedestrian traffic and shall yield the right-of-way to vehicles on the street into which the funeral procession is entering which are so close as to constitute a hazard. Having so yielded, a funeral procession may proceed into the street being entered without stopping until the last vehicle in the procession has entered the street, unless otherwise directed by a police officer.

5. No person operating a vehicle in a funeral procession shall disregard regulations governing directions of movement or turning in specified directions.

6. No person shall place any device or sign, which limits access on any roadway, or restricts parking in any parking or non parking area for the purpose of lining up a funeral procession without prior written authorization from the city mayor's office.

7. No person shall drive a vehicle through a parade or procession unless directed by a police officer.

8. A person who approaches a funeral procession, which has lawfully entered an intersection or street, shall reduce speed and stop if necessary to yield the right-of-way to the funeral procession until the last vehicle in the funeral procession has cleared the intersection or entered the street from a private driveway unless otherwise directed by a police officer.

9. No person shall drive any vehicle in a parade or procession, which has not been authorized by the designated person in charge of the parade, or procession. The designated person in charge shall be that person whose name appears on a parade or procession permit.

3-321-325 RESERVED.

PEDESTRIANS' RIGHTS AND DUTIES



3-321-326 WALKING ON HIGHWAYS. Pedestrians shall at all times when walking along or on a highway, walk on the left side of such highway.

3-321-327 RIGHT OF WAY. Where the 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 so yield, to a pedestrian crossing the street within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

3-321-328 CROSSING AT OTHER THAN CROSSWALK. Every pedestrian crossing a street 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.

3-321-329 DUTY OF DRIVER.

1. Every driver of a vehicle shall yield the right of way to pedestrian workers engaged in maintenance or construction work on a street or highway whenever the driver is notified of the presence of such workers by a flagman or a warning sign.

2. Every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street and shall give warning by sounding the horn when necessary and shall exercise due care upon observing any child or any confused or incapacitated person upon a street.

3-321-330 USE OF CROSSWALKS. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

3-321-331 SOLICITATION OF RIDES.

1. No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle.

2. Nothing in this section or this chapter shall be construed so as to prevent any pedestrian from standing on that portion of the street or highway, not ordinarily used for vehicular traffic for the purpose of soliciting a ride from the driver of any vehicle.

3-321-332 WHITE CANES RESTRICTED TO BLIND PERSONS. For the purpose of guarding against accidents in traffic on the public thoroughfares, it shall be unlawful for any person except persons wholly or partially blind to carry or use on the streets, highways and public places of the City any white canes or walking sticks, which are white in color or white, tipped with red.

3-321-333 DUTY OF DRIVERS UPON APPROACHING BLIND PERSONS. Any driver of a vehicle or operator of a motor-driven vehicle who approaches or comes in contact with a person wholly or partially blind carrying a cane or walking stick white in color or white tipped with red, or being led by a guide dog wearing a harness and walking on either side of or slightly in front of said blind person, shall immediately come to a complete stop, and take such precautions as may be necessary to avoid accident or injury to the person carrying a cane or walking stick white in color or white tipped with red or being led by a guide dog.

3-321-334 RESERVED.

3-321-335 CITY COUNCIL TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The City Council may take action:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

3-321-336 PLAY STREETS. The City Council has the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

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

3-321-337 to 3-321-340 RESERVED.

SPECIAL STOPS REQUIRED

3-321-341 to 3-321-349 RESERVED.

3-321-350 THROUGH HIGHWAYS. Streets or portions of streets described below are declared to be through highways: Highway 136 (Columbus Street).  
(Code of Iowa, Sec. 321.345 and 321.350)

1. AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the City maintenance person to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

2. AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING. When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause any curbing to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

(Code of Iowa, Sec. 321.358(10))

3. STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS. At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

4. 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.

5. SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten 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 driver shall have passed such school site.

3-321-351 to 3-321-352 RESERVED.

3-321-353 ENTERING STREET FROM PRIVATE ROADWAY.

1. The driver of a vehicle emerging from a private roadway, alley, driveway or building shall stop such vehicle immediately prior to driving on the sidewalk area and thereafter such driver shall proceed into the sidewalk area only when such driver can do so without danger to pedestrian traffic, and such driver shall yield the right of way to any vehicular traffic on the street into which such driver's vehicle is entering.

2. The driver of a vehicle about to enter or cross a highway from a private road or driveway shall stop such vehicle immediately prior to driving on such highway and shall yield the right of way to all vehicles approaching on such highway.

3-321-354 to 3-321-357 RESERVED.

#### STOPPING, STANDING, AND PARKING

3-321-358 PROHIBITED IN SPECIFIED PLACES. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five feet (5') on either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.

6. Within ten feet (10') upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.

7. Within fifty feet (50') of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

8. Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy five feet (75') of said entrance when properly signposted.

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

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

11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty feet (20') of the width of the roadway for the free movement of vehicular traffic.

12. Upon any street or in any alley in any part of the city in such a manner or under such conditions as to leave available less than ten feet (10') of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.

13. At any place where official signs or curb markings prohibit stopping, standing or parking.

14. Within ten feet (10') of the crosswalk at all intersections within the city.

15. In an alley under any fire escape at any time.

16. Within twenty (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.

3-321-359 RESERVED.

3-321-360 LOADING ZONES IN FRONT OF THEATERS, HOTELS, ETC. A space not to exceed fifty feet (50') is hereby reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty five (25) sleeping rooms, or other buildings 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.

3-321-361 STANDING OR PARKING CLOSE TO CURB.

1. STANDING OR PARKING CLOSE TO CURB. No person shall stand or park a vehicle in a roadway -other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb

or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

2. SIGNS OR MARKINGS INDICATING ANGLE PARKING. The City Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking.

3. OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. 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 the signs and markings.

3-321-361A LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within seven days of the violation, for the following parking violations:

1. Overtime parking	\$25.00
2. Prohibited parking	\$25.00
3. No parking zone	\$25.00
4. Blocking alley	\$25.00
5. Illegal parking	\$25.00
6. Street cleaning	\$25.00
7. Snow removal ban	\$25.00
8. Persons with disabilities parking	\$100.00

(Code of Iowa, Sec. 321L.4(2))  
(Ord. 4-2, passed November 4, 2002)  
(Amended during 2009 codification)

#### MISCELLANEOUS RULES

3-321-362 RESPONSIBILITY WHEN LEAVING MOTOR VEHICLE UNATTENDED. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, or when standing upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.

3-321-363 OBSTRUCTION TO DRIVER'S VIEW.

1. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

2. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead, or to the sides or to interfere with the driver's control over the driving mechanism of the vehicle.

3-321-363A DUTY OF DRIVER APPROACHING CREST OF HILLS, BLIND CURVES, ETC. The driver of a motor vehicle traveling through defiles or on approaching the crest of a hill

or grade shall have such motor vehicle under control and on the right-hand side of the roadway and, upon approaching any curve where the view is obstructed within a distance of two hundred (200) feet along the highway, shall give audible warning with the horn of such motor vehicle.

3-321-364 RESERVED.

3-321-365 COASTING.

1. The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears of such vehicle in neutral.

2. The driver of any commercial motor vehicle when traveling upon a downgrade shall not coast with the clutch disengaged.

3-321-366 RESERVED.

3-321-367 FOLLOWING FIRE APPARATUS. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

3-321-368 CROSSING FIRE HOSE. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

3-321-369 PUTTING DEBRIS ON HIGHWAY OR ROADWAY. A person shall not throw or deposit upon a highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris. A person shall not throw or deposit upon a highway or roadway a substance likely to injure any person, animal, or vehicle upon the highway or roadway.

3-321-370 RESERVED.

3-321-371 CLEANING UP WRECKS. Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

## SCHOOL BUSES

3-321-372 SCHOOL BUSES DISCHARGING PUPILS.

1. The driver of a school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils, turn on flashing warning lamps at a distance of not less than three hundred (300) feet nor more than five hundred (500) feet from the point where the pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils, the driver of the bus shall bring the bus to a stop, turn off the amber flashing warning lamps, turn on the red flashing warning lamps, and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off all flashing warning lamps, retract the stop arm and proceed on the route. Except to the extent that reduced visibility is caused by fog, snow or other

weather conditions, a school bus shall not stop to receive or discharge pupils unless there is at least three hundred (300) feet of unobstructed vision in each direction. However, the driver of a school bus is not required to use flashing warning lamps and the stop arm when receiving or discharging pupils at a designated loading and unloading zone at a school attendance center or at extracurricular or educational activity locations where students exiting the bus do not have to cross the street or highway.

If a school district contract with an urban transit system to transport children to and from a public or private school, the school bus, which is provided by the urban transit system shall not be required to be equipped with flashing warning lights and a stop arm. If the school bus provided by an urban transit system is equipped with flashing warning lights and a stop arm, the driver of the school bus shall use the flashing warning lights and stop arm as required by law.

A school bus shall, while carrying passengers, have its headlights turned on.

2. All pupils shall be received and discharged from the right front entrance of every school bus and if said pupils must cross the highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the highway only on signal from the bus driver.

3. The driver of any vehicle when meeting a school bus on which the amber warning lamps are flashing shall reduce the speed of said vehicle to not more than twenty (20) miles per hour, and shall bring said vehicle to a complete stop when school bus stops and signal arm is extended and said vehicle shall remain stopped until stop arm is retracted after which driver may proceed with due caution. The driver of any vehicle overtaking a school bus shall not pass a school bus when red or amber warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen (15) feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped until the stop arm is retracted and school bus resumes motion, or until signal by the driver to proceed.

3-321-372A MANNER OF STOPPING BUSES. Buses shall be drawn up to the curb at the near side of the street intersections, when loading or unloading passengers, excepting at intersections where spaces or otherwise designated.

3-321-373 to 3-321-380 RESERVED.

## SAFETY STANDARDS

3-321-381 MOVEMENT OF UNSAFE OR IMPROPERLY EQUIPPED VEHICLES. It is a misdemeanor, punishable as provided in Section 321.482 of the Code of Iowa, for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped with one or more unsafe tires or which is equipped in any manner in violation of this chapter.

3-321-381A SALE OF UNSAFE VEHICLES, ETC. No person shall have for sale, sell, or offer for sale any motor vehicle, trailer or semitrailer which is in such unsafe condition as to

endanger any person or which does not contain those parts or is not at all times equipped with such lamps and brakes and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter.

3-321-382 UPGRADE PULLS; MINIMUM SPEED. No motor vehicle or combination of vehicles, which cannot proceed up to three (3) percent grade, on dry concrete pavement, at a minimum speed of twenty (20) miles per hour, shall be operated on the streets of the city.

3-321-383 RESERVED.

## LIGHTING EQUIPMENT

3-321-384 WHEN LIGHTED LAMPS REQUIRED.

1. Every motor vehicle upon a street within the City, at any time from sunset to sunrise, and at such other times when conditions such as fog, rain, snow, or sleet provide insufficient lighting to render clearly discernible persons and vehicles on the street at a distance of five hundred feet (500') ahead shall display lighted head lamps, subject to exceptions with respect to parked vehicles as provided in this Chapter.

2. Whenever requirements are hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in subsection (a) of this Section upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

3-321-385 HEAD LAMPS ON MOTOR VEHICLES

1. Every motor vehicle other than a motorcycle or motorized bicycle shall be equipped with at least two (2) head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements set forth in this Division.

2. At all times specified in Subsection 3-321-384(a) of this Division, at least two (2) lighted lamps, except where one only is permitted, shall be displayed, one at each side at the front of every motor vehicle except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

3-321-386 HEAD LAMPS ON MOTORCYCLES AND MOTORIZED BICYCLES. Every motorcycle and motorized bicycle shall be equipped with at least one and not more than two (2) head lamps which shall comply with the requirements and limitations set forth in this Chapter.

3-321-387 REAR LAMPS. Every motor vehicle and every vehicle, which is being drawn at the end of a train of vehicles, shall be equipped with a lighted rear lamp, exhibiting a red light plainly visible from a distance of five hundred feet (500') to the rear.

3-321-388 ILLUMINATING PLATES. The rear lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet (50') to the rear. When the rear registration plate is illuminated by an electric lamp



other than the required rear lamp, the two (2) lamps shall be turned on or off only by the same control switch at all times when head lamps are lighted.

3-321-389 to 3-321-391 RESERVED.

3-321-392 CLEARANCE AND IDENTIFICATION LIGHTS ON TRUCKS, TRAILERS AND SEMI-TRAILERS. All requirements of the motor vehicle laws of the State relating to clearance and identification lights of trucks, trailers or semi-trailers shall be complied with in the operation of such vehicle within the City.

3-321-393 RESERVED.

3-321-394 LAMP OR FLAG ON PROJECTING LOAD.

1. Whenever the load upon any vehicle extends to the rear four feet (4') or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in Subsection 3-321-384.1 of this Division, a red light or lantern plainly visible from a distance of at least five hundred feet (500') to the sides and rear. The red light or lantern required under this Section shall be in addition to the red rear light required upon every vehicle.

2. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches (16") square.

3-321-395 LAMPS ON PARKED VEHICLES.

1. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, outside of a business district whether attended or unattended during the time lights are required under Subsection 3-321-384.1 of this Division, such vehicle shall be equipped with one or more lamps which shall exhibit a white or amber light on the roadway side visible from a distance of five hundred feet (500') to the front of such vehicle and a red light visible from a distance of five hundred (500) feet to the rear, unless there is sufficient illumination on the street where the vehicle is located to reveal any person or object within a distance of five hundred (500) feet upon such street.

2. Lamps on parked or stopped vehicles, except trucks, trailers or semitrailers as defined in Section 3-321-392 of the Iowa Code, required to be exhibited by this section, but not including running lights, shall not be lighted at any time when the vehicle is being driven on the highway unless the head lamps are also lighted. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

3-321-396 to 3-321-397 RESERVED.

3-321-398 LAMPS ON OTHER VEHICLES AND EQUIPMENT. All vehicles including animal-drawn vehicles and including those referred to in Section 3-321-384 of this Division not hereinbefore specifically required to be equipped with lamps, shall at all times specified in Section 3-321-384 of this Section be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet (500') to the front of such vehicle and, except for animal-drawn vehicles, with a lamp or lantern exhibiting a red light visible from a distance of five

hundred feet (500') to the rear. Animal-drawn vehicles shall be equipped with a flashing amber light visible from a distance of five hundred feet (500') to the rear of the vehicle during the time specified in Section 3-321-384 of this Division.

3-321-399 to 3-321-401 RESERVED.

3-321-402 SPOT LAMPS. Any motor vehicle may be equipped with not to exceed one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred (100) feet ahead of the vehicle.

3-321-403 RESERVED.

3-321-404 SIGNAL LAMPS AND DEVICES. Every motor vehicle shall be equipped with a signal lamp or signal device which is so constructed and located on the vehicle as to give a signal of intention to stop, which shall be red or yellow in color, which signal shall be plainly visible and understandable in normal sunlight and at night from a distance of one hundred (100) feet to the rear but shall not project a glaring or dazzling light.

3-321-405 to 3-321-408. RESERVED.

3-321-409 MANDATORY LIGHTING EQUIPMENT. Except as hereinafter provided, the headlamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motorized bicycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

1. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions.

2. There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead. On a straight, level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

3. Every new motor vehicle, other than a motorcycle or motorized bicycle, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

3-321-410 to 3-321-414 RESERVED.

3-321-415 REQUIRED USAGE OF LIGHTING DEVICES.

1. Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto

during the times specified in Section 3-321-384.1, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations of paragraphs 2 and 3.

2. Whenever a driver of a vehicle approaches an oncoming vehicle within one thousand (1000) feet, the driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in subsection 2 of Section 3-321-409 shall be deemed to avoid glare at all times, regardless of road contour and loading.

3. Whenever the driver of a vehicle follows another vehicle within four hundred (400) feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in subsection 1 of Section 3-321-409.

4. The provisions of subsections 2 and 3 do not apply to motorcycles or motorized bicycles being operated between sunrise and sunset.

3-321-416 to 3-321-418 RESERVED.

3-321-419 NUMBER OF DRIVING LAMPS REQUIRED OR PERMITTED. At all times specified in section 3-321-384 at least two lighted lamps, except where one only is permitted, shall be displayed, one on each side at the front of every motor vehicle except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

3-321-420 NUMBER OF LAMPS LIGHTED. Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than three hundred candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway or roadway.

3-321-421 SPECIAL RESTRICTIONS ON LAMPS. Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, or auxiliary driving lamps which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

3-321-422 RED LIGHT IN FRONT.

1. No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying or reflecting a red light visible from directly in front thereof.

2. No person shall display any color of light, other than red on the rear of any vehicle, except that stoplights and directional signals may be red, yellow, or amber.

3-321-423 to 3-321-429 RESERVED.

## BRAKES, HITCHES, AND SWAY CONTROL

### 3-321-430 BRAKE REQUIREMENTS.

1. Every motor vehicle, other than a motorcycle or motorized bicycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

2. Every motorcycle, and motorized bicycle, when operated upon a highway shall be equipped with at least one brake, which may be operated by hand or foot.

3. Every trailer or semitrailer of a gross weight of three thousand (3,000) pounds or more, and every trailer coach or travel trailer of a gross weight of three thousand (3,000) pounds or more intended for use for human habitation, when operated on the roadways of this city shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, and so designed as to be applied by the driver of the towing motor vehicle from its cab, or with self-actuating brakes, and weight equalizing hitch with a sway control of a type approved by the director. Every semitrailer, travel trailer, or trailer coach of a gross weight of three thousand (3,000) pounds or more shall be equipped with a separate, auxiliary means of applying the brakes on the semitrailer, travel trailer, or trailer coach from the cab of the towing vehicle. Trailers or semitrailers with a truck or truck tractor need only comply with the brake requirements.

4. Except as otherwise provided in this chapter, every new motor vehicle, trailer, or semitrailer hereafter sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle with the following exceptions:

- a. Any motorcycle and motorized bicycle.
- b. Any trailer or semitrailer of less than three thousand (3,000) pounds gross weight need not be equipped with brakes.
- c. Trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels, except that such vehicles equipped with two (2) or more front axles shall be equipped with brakes on at least one of such axles; provided that the service brakes of such vehicle comply with the performance requirements of Section 3-321-431.
- d. Only such brakes on the vehicle or vehicles being towed in a driveaway-towaway operation need be operative as may be necessary to insure compliance by the combination of vehicles with the performance requirements of Section 3-321-431. The term "driveaway-towaway" operation as used in this subsection means any operation in which any motor vehicle or motor vehicles, new or used, constitute the commodity being transported, when one set or more of wheels of any such motor vehicle or motor vehicles are on the roadway during the course of transportation, whether or not any such motor vehicle furnishes the motive power.

3-321-431 PERFORMANCE ABILITY OF BRAKES.

1. The service brakes upon any motor vehicle or combination of motor vehicles, when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent, when traveling twenty (20) miles an hour shall be adequate:

a. To stop such vehicle or vehicles having a gross weight of less than five thousand (5,000) pounds within a distance of thirty (30) feet.

b. To stop such vehicle or vehicles having a gross weight in excess of five thousand (5,000) pounds within a distance of forty-five (45) feet.

2. Under the above conditions the hand brake shall be adequate to hold such vehicle or vehicles stationary on any grade upon which operated.

3. Under the above conditions the service brakes upon a motor vehicle equipped with two-wheel brakes only, and when permitted hereunder, shall be adequate to stop the vehicle within a distance of forty-five (45) feet and the hand brake adequate to stop the vehicle within a distance of fifty-five (55) feet.

4. All braking distances specified in this section shall apply to all vehicles mentioned, whether such vehicles are not loaded or are loaded to the maximum capacity permitted under this chapter.

5. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

MISCELLANEOUS EQUIPMENT

3-321-432 HORNS AND WARNING DEVICES. Every motor vehicle when operated upon a street shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with such driver's horn but shall not otherwise use such horn when upon a street.

3-321-433 SIRENS AND BELLS PROHIBITED. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section. It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound such siren when necessary to warn pedestrians and other drivers of the approach thereof.

3-321-434 to 3-321-435 RESERVED.

3-321-436 MUFFLERS, PREVENTION OF NOISE. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive noise or annoying smoke. Notwithstanding the foregoing, no person shall use a muffler cutout, bypass or similar device upon a motor vehicle upon a street.

3-321-437 MIRRORS. Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the street for a distance of at least two hundred (200) feet to the rear of such vehicle. Any motor vehicle so loaded, or towing another vehicle in such manner, as to obstruct the view in a rear view mirror located in the driver's compartment shall be equipped with a side mirror so located that the view to the rear will not be obstructed.

3-321-438 WINDSHIELDS AND WINDOWS.

1. A person shall not drive a motor vehicle equipped with a windshield, sidewings, or side or rear windows, which do not permit clear vision.

2. A person shall not operate on the highway a motor vehicle equipped with a front windshield, a side window to the immediate right or left of the driver, or a sidewing forward of and to the left or right of the driver which is excessively dark or reflective so that it is difficult for a person outside the motor vehicle to see into the motor vehicle through the windshield, window, or sidewing.

3. Every motor vehicle except a motorcycle, or a vehicle included in the provisions of Section 321.383 or Section 321.115 of the Code of Iowa shall be equipped with a windshield in accordance with Section 321.444 of the Code of Iowa.

3-321-439 WINDSHIELD WIPERS. The windshield of every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be constructed as to be controlled or operated by the driver of the vehicle.

3-321-440 RESTRICTIONS AS TO TIRE EQUIPMENT.

1. Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery. Any pneumatic tire on a vehicle shall be considered unsafe if it has:

- a. Any part of the ply or cord exposed;
- b. Any bump, bulge or separation;
- c. A tread design depth of less than one-sixteenth (1/16) of an inch measured in any two (2) or more adjacent tread grooves, exclusive of tie bars or, for those tires with tread wear indicators, worn to the level of the tread wear indicators in any two (2) tread grooves;
- d. A marking "not for highway use", "for racing purposes only," "unsafe for highway use";

- e. Tread or sidewall cracks, cuts or snags deep enough to expose the body cord;
  - f. Such other conditions as may be reasonably demonstrated to render it unsafe;
  - g. Been regrooved or recut below the original tread design depth, excepting special tires which have extra undertread rubber and are identified as such; or
2. If a pneumatic tire was originally designed without grooves or tread, the safety standards therefore shall be established by the Director.

3-321-441 METAL TIRES PROHIBITED. No person shall operate or move on any street any motor vehicle, trailer, or semi-trailer having any metal tire or metal track in contact with the roadway.

3-321-442 PROJECTIONS ON WHEELS. No tire on a vehicle moved on a street shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire except that it shall be permissible to use:

- 1. Farm machinery with tires having protuberances, which will not injure the street.
- 2. Tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.
- 3. Pneumatic tires with inserted ice grips or tire studs projecting not more than one-sixteenth inch (1/16") beyond the tread of the traction surface of the tire upon any vehicle from November 1 of each year to April 1 of the following year, except that a school bus and fire department emergency apparatus may use such tires at any time.

3-321-443 to 3-321-444 RESERVED.

3-321-445 SAFETY BELTS AND SAFETY HARNESSSES. It shall be unlawful for any driver or front seat occupant of a 1966 model year or newer model motor vehicle which is subject to registration in Iowa, except a motorcycle or a motorized bicycle, not to wear a properly adjusted and fastened safety belt or safety harness anytime the vehicle is in forward motion on a street in this city, except that a child under six (6) years of age shall be secured as required under section 3-321-446 of this division.

This section shall not apply to:

- 1. The driver or front seat occupant of a motor vehicle, which is not required to be equipped for safety belts or safety harnesses under rules adopted by the Iowa department of transportation.
- 2. The driver and front seat occupants of a motor vehicle who are actively engaged in work which requires them to alight from and reenter the vehicle at frequent intervals, provided the vehicle, does not exceed twenty five (25) miles per hour between stops.
- 3. The driver of a motor vehicle while performing duties as a rural letter carrier for the U.S.

postal service. This exemption applies between the first delivery point after leaving the post office and the last delivery point before returning to the post office.

4. Passengers of a bus.

5. A person possessing a written certification from a physician on a form provided by the Iowa department of transportation that the person is unable to wear a safety belt or safety harness due to physical or medical reasons. The certification shall specify the time period for which the exemption applies. The time period shall not exceed twelve (12) months, at which time a new certification may be issued.

6. Front seat occupants of an authorized emergency vehicle while they are being transported in an emergency. However, this exemption does not apply to the driver of the authorized emergency vehicle.

### 3-321-446 CHILD RESTRAINT DEVICES.

1. It shall be unlawful for any person to operate a motor vehicle transporting a child under three (3) years of age in a motor vehicle which is subject to registration by the state having a gross weight of ten thousand (10,000) pounds or less, except a school bus, motorcycle or motorized bicycle, without first securing the child in a child restraint system which meets federal motor vehicle safety standards and used in accordance with the manufacturer's instructions.

2. It shall be unlawful for any person to operate a motor vehicle transporting a child at least three (3) years of age but under six (6) years of age in a motor vehicle which is subject to registration by the state having a gross weight of ten thousand (10,000) pounds or less, except a school bus, motorcycle or motorized bicycle, without first securing the child by either a child restraint system which meets federal motor vehicle safety standards and used in accordance with the manufacturer's instructions or by a safety belt or safety harness of a type approved under section 3-321-445 of this division.

3. This section does not apply to peace officers acting on official duty, transportation of children in 1965 model year or older vehicles, authorized emergency vehicles, a child who has been certified by a licensed physician as having a medical, physical, or mental condition which prevents or makes inadvisable securing the child in a child restraint system, safety belt or safety harness.

3-321-447 to 3-321-451. RESERVED.

### SIZE, WEIGHT, AND LOAD

3-321-452 to 3-321-454. RESERVED.

### 3-321-455 SIZE, WEIGHT AND LOAD RESTRICTIONS-PROJECTING LOADS ON PASSENGER VEHICLES.

1. "Clinging to Vehicle." No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle



nor extending more than six inches (6") beyond the line of the fenders on the right side thereof. Passengers shall not ride on any part of any vehicle unless it is expressly designed either for passenger use or designed for carrying livestock, merchandise, or freight. No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

2. It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street any vehicle or vehicles of a size or weight exceeding the limitations stated in subsection 2.a. to 2.d. of this Section.

a. Except as otherwise provided herein, the gross weight imposed on the street by the wheels of any one axle of a vehicle, or of a combination of vehicles, operated on the streets of the City, shall not exceed twenty thousand (20,000) pounds on an axle equipped with pneumatic tires, and shall not exceed fourteen thousand (14,000) pounds on an axle equipped with solid rubber tires. The gross weight on any tandem axle of a vehicle, or any combination of vehicles, shall not exceed thirty four thousand (34,000) pounds on a tandem axle equipped with pneumatic tires.

b. The gross weight imposed on the street by any group of axles may not exceed the maximum gross weights in the following table for each of the respective distances between axles and the respective numbers of axles of a group:

Distance In Feet Between Foremost And Rearmost Axles Of Group	Maximum Gross Weight In Pounds Of A Group Of:
4 Axles <sup>1</sup>	5 Axles <sup>2</sup>
12	55,500
13	60,000
14	60,500
15	61,500
16	62,000
17	63,000
18	63,500
19	64,500
20	65,000
21	66,000
22	66,500
23	67,500
24	68,500
25	69,000
26	69,500
27	70,500
28	71,300
29	72,000
30	72,700
31	73,000
32	73,000 <sup>3</sup>

NOTES:

(1) Four consecutive axles of a 4-axle vehicle or of any vehicle having a total of 5 or more axles.

(2) Five consecutive axles of a 5-axle vehicle or of any vehicle having a total of 6 or more axles.

(3) Maximum at 32 or more feet between axles.

(4) Notwithstanding subsection (b)(3) of this Section, two (2) consecutive sets of tandem axles may impose on the street a gross load of thirty four thousand (34,000) pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty six feet (36') or more.

3-321-456 to 3-321-457. RESERVED.

3-321-458 SIZE, WEIGHT AND LOAD RESTRICTIONS-LOADING BEYOND FRONT. The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet (3') beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with such bumper.

3-321-458A SIZE, WEIGHT AND LOAD RESTRICTIONS-SPILLING LOADS ON STREETS. A vehicle shall not be driven or moved on any highway by any person unless such vehicle is so constructed or loaded or the load securely covered as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping or its load covering from dropping from the vehicle, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway. The provisions of this Section shall not apply to vehicles loaded with products listed in section 321.466, of the Code of Iowa.

3-321-459 to 3-321-461 RESERVED.

3-321-462 DRAWBARS AND SAFETY CHAINS.

1. When one vehicle is towing or pulling another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and shall be fastened to the frame of the towing vehicle in such manner as to prevent sidesway, and in addition to such principal connection there shall be a safety chain which shall be so fastened as to be capable of holding the towed vehicle should the principal connection for any reason fail.

2. The connection between a truck tractor and a semitrailer with a gross weight of three thousand (3,000) pounds or more shall be of a type approved by the commissioner, and the commissioner is hereby given authority to approve or disapprove such types of connection submitted to the commissioner.

3-321-463 to 3-321-599 RESERVED.

MISCELLANEOUS CITY PROVISIONS

3-321-600 to 3-321-601 RESERVED.

## PARKING

3-321-602 PROHIBITED ON DESIGNATED STREETS OR PORTIONS THEREOF.

1. Where Posted; Exception: It shall be unlawful for any person to park a motor vehicle on those streets or portions thereof designated from time to time as areas where parking is prohibited, whether at all times, between certain hours, for longer than specified times between certain hours or for longer than specified times, in violation of such regulations when signs have been posted in such areas giving notice of such regulations.

2. Vehicles Not Moved Deemed Stationary: For the purpose of such regulations, any vehicle not moved out of the block during specified and designated parking periods shall be deemed to have remained stationary.

3. TRUCK PARKING PROHIBITED. Trucks weighing five tons or more, loaded or empty, shall not be parked at the following locations on the streets named: All streets in Restricted Residential Districts as defined by 3-321-1.

3-321-603 PARKING RESTRICTIONS IN SCHOOL AREAS.

1. Where spaces have been set aside adjacent to school property by signs or markings for "bus loading only", it shall be unlawful for the operator of any vehicle other than a bus engaged in the loading or unloading of students to stand or park in any such "bus loading only" spaces.

2. Where spaces have been set aside adjacent to school property by signs or markings for "no parking school hours", it shall be unlawful for the operator of any vehicle to stop, stand or park within the space area during the hours when the adjacent school is in session.

3-321-604 RESERVED.

3-321-605 to 3-321-607. RESERVED.

3-321-608 PARKING IN FRONT OF OTHERS' RESIDENCES. No truck, bus, van, farm tractor or vehicle used for the carrying of freight, merchandise or passengers shall be parked or permitted to stand in front of the residence property of others so as to interfere with free accessibility thereto for a longer period than is reasonably necessary. The intent of this section is to prohibit the parking or placing of such vehicles in front of residence property to the inconvenience of abutting residences unless the parking or placing of such vehicle is reasonably necessary when taken in connection with the purpose for which such vehicles are used or needed.

3-321-609 PARKING RESTRICTION FOR TRUCKS, SEMITRAILERS AND TRAILERS. It shall be unlawful for the operator of any such vehicle weighing five tons or more, loaded or empty, to stop, stand or park in the following areas:

Restricted Residence District consists on all land area lying within the existing or amended

corporate limits of the City of New Vienna, Iowa with the exception of the business district when unloading. Sec. 3-321-1.

3-321-610 **LOADING AND UNLOADING IN BUSINESS DISTRICTS TO BE DONE IN ALLEY WHERE POSSIBLE:** Business district means Columbus between Harrison Street and Jefferson Street; Iowa Street between New Vienna Road and Main Street; Jefferson Street between Columbus Street and the Maquoketa River; Main Street between Fork Street and Iowa Street; New Vienna Road between Columbus Street and Iowa Street.

(Ord. 4-2, passed November 4, 2002)

Loading and unloading of merchandise, freight or materials shall not be done from a street in the business district where the same can be done from an alley.

3-321-611 **PARKING IN FIRE LANES.**

1. No person shall park any motor vehicle including automobiles, automobile trucks, motor buses, motorcycles, motorized bicycles or other self-propelled vehicles including any trailers, semitrailers, farm tractor or other devices used in connection therewith in any required access roadway for the movement of fire department apparatus at any private premises within the city.

2. No person or agent having control of private premises within the city shall knowingly permit another person to park any motor vehicle including automobiles, automobile trucks, motor buses, motorcycles, motorized bicycles or other self-propelled vehicles including any trailers, semitrailers, farm tractor or other devices used in connection therewith in any required access roadway for the movement of fire department apparatus.

3. All required access roadways shall be posted with "no parking" signs or other appropriate notice, or both, to be provided by the owner and/or operator of the private premises, as approved by the Fire Chief.

3-321-612 **PARKING IN PARKING LOTS.** It shall be unlawful for any motor vehicle to be parked in any stall or space in any parking lot within the city without first having secured the permission of the operator of any parking lot in which stalls or spaces are used for parking vehicles.

3-321-613 **BACKING FOR PURPOSES OF PARKING IN BUSINESS DISTRICTS.** In the business district the driver of a vehicle shall not back the vehicle between parked vehicles in order to park the driver's vehicle unless the driver can do so without interfering with traffic.

3-321-614 **RESERVED.**

3-321-615 **PARKING OF ADVERTISING VEHICLES.** No person shall park any vehicle upon the streets, which by loudspeakers or mechanical devices, is used to advertise events or the sale of goods, wares or merchandise.

3-321-616 **RESERVED SERVICE VEHICLE PARKING.**

1. Generally: When appropriate signs have been erected, a space not to exceed eighty feet

(80') is hereby set aside adjacent to the municipal auditorium for the parking of vehicles engaged in loading, unloading or actually servicing the facility. It shall be unlawful for the operator of any vehicle to stop, stand or park within such space unless and until an appropriate service vehicle emblem has been obtained from the manager of the said facility and is prominently displayed from the interior of said vehicle.

2. Service Vehicle Emblems: Service vehicle emblems of appropriate design shall be supplied to the facility by the city manager.

### 3-321-617 RESERVED PARKING FOR CITY EMPLOYEES.

1. When appropriate, signs have been posted, spaces to accommodate vehicles are hereby set aside for the parking of vehicles by city employees.

2. It shall be unlawful for the operator of any vehicle to stop, stand or park within such space unless such person is a city employee.

3-321-618 PARKING IN ALLEYS. Unless actually engaged in taking on or discharging persons, goods, or merchandise, no person shall stop or park a vehicle in the alleys or portions of alleys designated as alleys from time to time when parking or stopping is prohibited. All vehicles stopped or parked in any of said alleys for the purpose of taking on or discharging persons, goods, or merchandise shall have a qualified operator in attendance at all times being subject to movement upon request of a police or fire officer. The provisions of this section shall not apply to vehicles standing or parked in compliance with the directions of a police officer or a traffic-control device.

### 3-321-619 RESERVED LAW ENFORCEMENT VEHICLE PARKING.

1. When appropriate signs have been posted, the following areas are hereby set aside for the parking of law enforcement vehicles:

That area located on Columbus Street (State Highway 136), between West Main Street and West Mill Street and the municipal owned parking lot, located on the west side of the City Hall.

2. It shall be unlawful for the operator of any vehicle to stop, stand or park within such area unless such vehicle is clearly identified and marked as a vehicle assigned to law enforcement activities.

3-321-620 PARKING ON PRIVATE PROPERTY WITHOUT CONSENT OF OWNER. No person shall drive, stop, stand or park a vehicle onto or upon privately owned property, or an area developed as a private off street parking facility, without the consent of the owner, lessee or person in charge of such privately owned property or facility.

3-321-621 PARKING VIOLATIONS-FINES. The owner or operator of any vehicle who shall receive notice, either personally or by the attaching of such notice to said vehicle, that said vehicle is parked in such manner, in such a place or for such a time as to violate the provisions of this chapter relating to the parking of vehicles may, within thirty (30) calendar days from the time when such notice is served upon such owner or operator or attached to such vehicle, pay to the city as a penalty for such violation the following sum:

1. Double Parking And Any Other Standing Or Parking Violation: If paid within thirty (30) calendar days from time of violation as indicated on the notice, such fine shall be the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, such fine shall be the sum of ten dollars (\$10.00).

2. Street Storage: If paid within thirty (30) calendar days from time of violation as indicated on the notice, such fine shall be the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, such fine shall be the sum of ten dollars (\$10.00).

3. Parking In Private Lots: If paid within thirty (30) calendar days from time of violation as indicated on the notice such fine shall be the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, such fine shall be the sum of ten dollars (\$10.00).

4. Parking In Interference With Snow Or Ice Removal Or Street Cleaning: If paid within thirty (30) calendar days from the time of violation as indicated in the notice, such fine will be in the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, then such fine shall be in the sum of ten dollars (\$10.00).

5. Parking In Required Access Roadways: If paid within thirty (30) calendar days from the time of violation as indicated in the notice, such fine will be in the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, then such fine will be in the sum of ten dollars (\$10.00).

6. Parking In Reserved City Service Areas Or City Owned Vehicle Parking Areas As Provided In Section 3-321-616, 3-321-617, 3-321-619 or 3-321-626 of this Division: If paid within thirty (30) calendar days from the time of violation as indicated in the notice, such fine shall be in the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, then such fine shall be in the sum of ten dollars (\$10.00).

7. Illegal Alley Parking: If paid within thirty (30) calendar days from time of violation as indicated on the notice, such fine shall be the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, such fine shall be the sum of ten dollars (\$10.00).

8. Parking Within Five Feet Of A Fire Hydrant As Provided In Subsection 3-321.358(4) Of This Division: If paid within thirty (30) calendar days from time of violation as indicated on the notice, such fine shall be in the sum of five dollars (\$5.00); if not paid within thirty (30) calendar days, such fine shall be in the sum of ten dollars (\$10.00).

Payment of the above penalty, or fine, upon being mailed to the city clerk shall be deemed paid as of the time of postmark on the envelope thereof.

3-321-622 PARKING VIOLATIONS-POSTING BOND. All persons receiving such notice of violation and deeming themselves not guilty of such offense, or desiring to appear and defend against the same, shall within a twenty four (24) hour period appear at the Police Department and promise to appear in the District Court of Dubuque County, Iowa for trial.

3-321-623 PARKING VIOLATIONS-EFFECT OF SECTIONS 3-321-649 AND 3-321-650. The provisions of sections 3-321-621 and 3-321-622 of this division shall not in any manner affect

the penalty provisions of any other ordinance, or part of ordinance, relating to the parking of vehicles upon the streets, avenues, alleys or public places within the city, but shall be cumulative of all other ordinances on the subject and for the purpose of providing a more convenient and economical method of handling such violations.

**3-321-624 PARKING VIOLATIONS-REMOVAL OF CERTAIN VEHICLES AUTHORIZED; PREREQUISITES TO RELEASE.**

1. Whenever a vehicle is found stopped or parked in violation of any state law or city ordinance, or in such manner as to cause a dangerous condition to exist or whenever the owner or operator of a vehicle has failed to report or heed a notice to appear before the proper magistrate, any police officer may remove such vehicle from a street or alley to a place of safekeeping.

2. If such vehicle must be serviced or towed, the fee together with any other necessary expense incurred in such removal shall be assessed against the vehicle and shall be paid before it is released.

**3-321-625 PARKING VIOLATIONS-EVIDENTIARY EFFECT OF REGISTRATION PLATES.** In any proceedings for violation of the parking provisions of this chapter, the registration plates displayed on such motor vehicle involved in such violation shall constitute prima facie evidence that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

**3-321-626. RESERVED FIRE DEPARTMENT PARKING- RESERVED**

**3-321-627 ALTERNATE SIDE STREET PARKING.**

1. This section is enacted as an enforcement procedure for the protection of public safety and welfare and shall be used to facilitate street sweeping and the removal of snow and ice accumulations on certain public streets.

2. There is hereby established an alternate side street parking district, unless signs are erected giving notice otherwise, comprised of streets and/or portions thereof as follows:

Columbus Street (State Highway 136); Church Street; Country Drive; Elmhurst Street;

Fork Street; Harrison Street; Hoeger Lane; Iowa Street; Jackson Street;

Jefferson Street; Main Street, Maquoketa Street; Mill Street; Nabor Street;

New Vienna Road; Pleasant View Drive; Plumbwood Street; Red Oak Street;

Smith Street; Sunrise Court; Washington Street; Water Street; Wentz Road;

West View Street;

3. The city council is hereby authorized to establish time restrictions within the alternate side street parking district and to post appropriate signs therefore.

4. Upon petition to the city council by any person for parking time restrictions within the alternate side street parking district, the city council shall review such requests and make such changes as are deemed necessary by the city council.

5. When any vehicle parked in violation of this section constitutes a hindrance and a hazard to the prompt removal of snow and ice accumulations, the police department may cause the immediate removal of the vehicle. When conditions permit, the police department shall make a reasonable effort to contact the last registered owner of the vehicle before summarily removing the vehicle.

6. The towing and storage of vehicles parking in violation of this section shall be in accordance with sections 3-321-770, 3-321-771, and 3-321-772.

3-321-628 to 3-321-631 RESERVED.

3-321-632 MANNER OF PARKING IN SPACES. Each motor vehicle parked in the municipal parking shall be parked within such parking spaces as are established and designated by appropriate markings and each motor vehicle operated or moved therein and there from shall be operated or moved within the traffic lanes established and designated by appropriate markings. It shall be prohibited for any person to cause, allow, permit or suffer any motor vehicle registered in the name of such person to be parked in the municipal parking in a position not entirely within such marked parking spaces or in such a manner as will obstruct free movement of motor vehicles in such marked traffic lanes.

3-321-633 BACKING INTO SPACES. No motor vehicles shall be backed into a parking space in a municipal parking except in those spaces, which are laid off at right angles to the designated traffic lanes.

3-321-634 to 3-321-637 RESERVED.

3-321-638 REPAIRS, MAINTENANCE OF VEHICLES. No person shall clean out or wash motor vehicles, change tires, change oil or make repairs to any motor vehicle parked in a municipal parking, except such necessary work to start or move a motor vehicle from the municipal parking may be permitted for such purpose only.

3-321-639 to 3-321-641 RESERVED.

3-321-642 DESIGNATED-LOTS.

The municipally owned parking lots in the city shall be designated numerically as follows:

Lot No. 1: The lot situated between West Main Street and West Mill Street located on the west side of the City Hall.

Lot No. 2: "Snowmobile Parking Area" The lot or property, located east and south of the intersection of Columbus Street (State Highway 136) and Wentz Road.



3-321-643 to 3-321-648 RESERVED.

3-321-649 ESTABLISHMENT OF SPACES; PARKING WITHIN SPACES REQUIRED. The city council shall establish and designate by suitable markings, parking spaces and traffic lanes on municipally owned parking lots and each motor vehicle parking in such parking lots shall park within such parking spaces. It shall be unlawful to park any motor vehicle on any municipally owned parking lot in such a position that the same shall not be entirely within such parking space or in such a manner that it shall obstruct the free movement of vehicles over such traffic lanes.

3-321-650 to 3-321-680. RESERVED.

#### RESTRICTIONS DURING SNOW REMOVAL

3-321-681 PARKING SO AS TO INTERFERE WITH PLOWING OR REMOVAL PROHIBITED. No "vehicle", as defined in this chapter, shall be parked upon any street, alley or city owned parking lot in the city in such a manner as to interfere with the plowing or removal of snow or ice from such street.

3-321-682 SNOW ROUTE, RESTRICTED PARKING.

1. Application of Section: The provisions of this section prohibiting the standing or parking of vehicles on certain designated street, alley or city owned parking lot shall apply when a snow route restricted parking declaration has been issued by the city mayor.

2. Declaration of Snow Route Restricted Parking: Whenever snow accumulations of three (3) or more inches occur, the city mayor after consultation with the Public Works Department shall have the authority to issue a snow restricted parking declaration.

3. Notification To The Public: The city mayor shall request the cooperation of the local press, radio and television media to announce the declaration of snow route restricted parking. The provisions of this section designating snow route restricted parking shall be effective not less than six (6) hours after the initial announcement of the declaration.

4. Parking Prohibited Under Certain Conditions: After the time specified in the declaration of snow route restricted parking, it shall be unlawful for any person to obstruct the orderly plowing or removal of snow from the city's streets by parking or otherwise leaving unattended any vehicle upon any street designated as a snow route, as set forth in subsection (e) of this section and during the times set forth by the city mayor or until the accumulated snow has been removed or plowed from the street. During the period of the declaration, the parking restrictions of this section shall supersede all other parking regulations relating to the streets designated as snow routes.

5. Designated Snow Routes, main arterial streets: Parking shall be prohibited on these main arterials during a snow emergency.

Columbus Street (State Highway 136); Main Street, New Vienna Road.

6. Termination Of Snow Route Parking Restrictions: Whenever the City Mayor shall find that the conditions which gave rise to the declaration no longer exist, the City Mayor is authorized

to declare the termination of the snow route parking restrictions, in whole or in part, effective immediately upon announcement. When the termination is announced, it shall then be lawful to park on those streets in accordance with the regular parking provisions. The City Mayor shall request the cooperation of the local press, radio and television media to announce the termination of the snow route parking restrictions.

### 3-321-683 DECLARATION OF EMERGENCY.

1. When it becomes necessary to plow or remove snow from streets which because of the accumulation of snow thereon causes such a hindrance to traffic as constitutes an emergency unless the snow is promptly plowed or removed, the City Mayor shall by appropriate public media declare the beginning of an emergency and the application of emergency snow parking regulations which regulations shall remain in force and effect until lifted by the City Mayor.

2. For the purpose of this Division, the accumulation of snow on any streets or area sufficient for the application of emergency regulations herein shall be any such accumulation of snow which hinders the safe movement of traffic thereon or that impedes the ability of emergency vehicles and public transportation vehicles to travel safely and expeditiously over such streets or areas.

3. The City Mayor is hereby authorized and empowered to erect signs or give notice as to prohibit parking upon any street, alley in the City and upon any City-owned parking lot, except main arterial streets for which provisions are stated in Sec. 3-321-682, upon which snow plowing or snow removal equipment is operating and upon giving notice or the erection of such signs parking thereon shall be prohibited until such notice of termination is given or signs removed at the direction of the City Mayor.

4. When appropriate, upon the declaration of a snow emergency by the City Mayor as provided in this section, emergency snow parking regulations as to arterial streets in the City shall mean there shall be no parking on the odd-numbered side of the following streets on odd-numbered days and on the even-numbered side of the following streets on even-numbered days: These emergency snow-parking regulations shall include those arterial streets where parking is prohibited at any time on one side of the arterial street. These emergency snow-parking regulations shall not apply to those arterial streets where parking is prohibited on both sides of such arterial street at any time.

a. The provisions of this Section shall supersede all other parking regulations in force and posted on any arterial street during such emergency and shall require no posting of the emergency no parking snow regulations as to arterial streets.

Arterial streets shall be such streets as: Church Street; Country Drive;

Elmhurst Street; Fork Street; Harrison Street; Hoeger Lane; Iowa Street;

Jackson Street; Jefferson Street; Maquoketa Street; Mill Street; Nabor Street;

Pleasant View Drive; Plumbwood Street; Red Oak Street; Smith Street; Sunrise Court;

Washington Street; Water Street; Wentz Road; West View Street.

3-321-684 PARKING LOTS. No "vehicle", as defined in this Chapter, shall be parked upon or in any parking lot owned by the City upon which snow plowing or snow removal equipment is operating, and upon the erection of such signs, parking thereon shall be prohibited until such signs shall be removed at the direction of the City Mayor.

3-321-685 REMOVAL OF OBSTRUCTING VEHICLES.

1. Authorized: Any vehicle located or parked within the limits of any street in the City or parked in or upon any City-owned parking lot which is substantially interfering with the prompt and orderly plowing or removal of snow or ice from such streets or such parking lot in violation of this Division is hereby declared to be a nuisance and may be towed or removed by or under the direction of the Chief of Police to any place designated by the Chief of Police for safekeeping.

2. Compliance: The towing and storage of vehicles parked in violation of this Division shall be in accordance with Sections 3-321-431, 3-321-432 and 3-321-433 of this Code.

3-321-686 to 3.3-699 RESERVED.

#### PARKING SPACE FOR THE DISABLED

3-321-700 PURPOSE.

The purpose of this Division is to establish permanent parking for disabled persons.

3-321-701 FINDINGS OF FACT.

The City Council finds there is a need for permanent parking places for disabled persons in order that various facilities, businesses and residences within the City will be accessible to, and be functional for disabled persons.

3-321-702 SPECIAL PARKING PLACES DESIGNATED.

The City Mayor is hereby authorized to designate such special parking places for disabled persons as may be necessary to carry out the provisions of this Division.

3-321-703 DESIGNATION OF PARKING PLACES GENERALLY; SPECIFICATIONS FOR ANGULAR PARKING FOR DISABLED PERSONS.

1. Special parking places are hereby set aside as special parking places for disabled persons and shall be designated as special parking places only for parking motor vehicles displaying a special identification device issued by an official State or Federal agency.

Angular parking places designated for disabled person parking shall have a parking place width of at least eight feet (8') with an additional adjacent access aisle of a minimum five feet (5') in width to provide for access to and from the parking space by disabled persons who are confined to wheelchairs or need the use of walkers or crutches for mobility. Where such angular parking

spaces are designated "van accessible", the width of the angular parking place shall be at least eight feet (8') with an additional adjacent access aisle of a minimum eight feet (8') in width.

### 3-321-704 DISABILITY SIGNS REQUIRED.

1. Parking spaces designated as special parking places for disabled persons shall be identified with the disability parking sign on a vertical post bearing the international symbol of accessibility and shall include a sign stating the fine is one hundred dollars (\$100.00) for improper use.

2. Any person who owns or leases rental property in the City and is required to provide disabled parking by the Iowa Code shall identify each parking space with a disability parking sign bearing the international symbol of accessibility and shall include a sign stating the fine is one hundred dollars (\$100.00) for improper use.

### 3-321-705 PROHIBITED USE OF PARKING PLACES OR IDENTIFICATION DEVICES.

The use of a disabled person space, including the access aisle, located on either public or private property, by a motor vehicle not displaying a special identification device issued by an official State or Federal agency, or by a motor vehicle displaying such a device but not being used by a disabled person, as operator or passenger, is prohibited and is a misdemeanor for which a fine may be imposed upon the owner, operator or lessee of the motor vehicle. The fine for each violation shall be one hundred dollars (\$100.00).

### 3-321-706 AUTHORITY TO IMPOUND VEHICLES PARKING IN VIOLATION OF DIVISION.

1. Any motor vehicle located or parked in a special parking place designated for disabled persons in violation of Section 3-321-705 of this Division may be towed or removed by or under the direction of the Police Department.

2. The towing and storage of motor vehicles parked in violation of this Division shall be in accordance with Sections 3-321-770, 3-321-771 and 3-321-772 of this Chapter.

### 3-321-707 BUSINESS DISTRICT.

1. There is hereby established a Business District, pursuant to Iowa Code section 321L.5 (4) (a), for the purpose of allocating disabled person parking spaces within said District. Not less than 2% of total parking for Disability Parking.

2. The said Business District shall be defined as Municipal parking lot located on the west side of the City Hall, between West Main Street, West Mill Street and as the Business District described in Sections 3-321-1 of this Chapter.

### 3-321-708 to 3-321-749 RESERVED.

## IMPOUNDMENT OF VEHICLES

### GENERALLY

3-321-750 INTENT AND PURPOSE. This article is enacted as an enforcement procedure for protection of the public peace, safety and welfare and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic violations, and for the protection of public rights in the use of city streets and thoroughfares.

#### SCOFFLAW

3-321-751 REMOVAL AND IMPOUNDMENT.

AUTHORITY TO IMPOUND VEHICLES. Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

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

2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.

3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.

4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

5. Any vehicle having against it five (5) or more unpaid violations, charging that such vehicle was parked, stopped or standing in violation of any law, ordinance or local authority of the city shall be deemed a public nuisance.

6. The registered owner of a vehicle having against it five (5) or more outstanding unpaid violations shall be presumed to be the owner at the time the violations were in fact issued and shall be severally responsible for the offenses and the impoundment, except where the use of the vehicle was secured by the operator without the owner's consent.

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

3-321-752 to 3-321-759 RESERVED.

#### STREET STORAGE

3-321-760 INTENT AND PURPOSE. The presence of unattended and unmoved motor vehicles in or about public places for more than twenty four (24) hours tends to impede traffic in the street;

interfere with the enjoyment of property; reduce the value of private property; invite vandalism and plundering; create fire hazards; extend and aggravate urban blight; and result in a serious hazard to the public health, safety, comfort, community welfare and happiness of the residents of the city.

3-321-761 DEFINITION. An "unattended motor vehicle", for the purpose of this division, means an operable or non-operable vehicle, which has remained in a stationary position on a public way for twenty-four (24) hours or more.

3-321-762 UNATTENDED VEHICLES.

1. It shall be unlawful for any person to permit an unattended vehicle to stand or park in or about a public place for twenty-four (24) hours or more without such vehicle being moved.

2. The County Sheriff, upon initiative or upon complaint, may take into custody any vehicle standing or parking in violation of this division.

3. Upon evidence that the vehicle has been parked on a public way for more than twenty-four (24) hours without being moved, the County Sheriff shall issue a notice of fine under section 3-321-621 of this chapter. If such vehicle has not been moved within twenty-four (24) hours from the time of notice of fine, or if there is evidence that the vehicle has been parked for more than forty eight (48) hours before receiving the notice of fine, the County Sheriff may cause removal of the vehicle. When conditions permit, the County Sheriff shall make a reasonable effort to contact the last registered owner of the vehicle before summarily removing the vehicle.

3-321-763 EXCLUSION. Nothing in this division shall preclude the immediate removal by the County Sheriff of a motor vehicle, which is parked in violation of any other section of this chapter.

3-321-764 to 3-321-769. RESERVED.

## TOWING AND STORAGE

3-321-770 NOTICE TO OWNER

1. Whenever the County Sheriff has impounded a vehicle pursuant to this article and such vehicle has not been reclaimed, a notice shall be provided within twenty (20) days by certified mail to the last known registered owner of the vehicle and all lienholders of record, addressed to their last known addresses of record, that the vehicle has been taken into custody. Notice shall be deemed given when mailed.

2. The notice shall describe the year, make, model and serial number of the vehicle, set forth the location of the facility where the vehicle is being held, inform the owner and the lienholders of their right to reclaim the vehicle within twenty one (21) days after accrued fines and costs for each outstanding violation, towing, preservation and storage charges resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this section.

3. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time period provided shall be deemed a waiver by the owner

and all lienholders of all right, title, claim and interest in the vehicle and that such failure is deemed consent to the sale of the vehicle at public auction or disposal to a demolisher. If the owner and lienholders do not exercise their right to reclaim such vehicle within the twenty one (21) day reclaiming period, such owner and lienholders shall no longer have any right, title, claim or interest in or to such vehicle.

4. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation shall be sufficient to meet the requirements of notice under this section.

5. The owner or any lienholder may, by written request, deliver to the County Sheriff prior to the expiration of the twenty one (21) day reclaiming period, obtain an additional fourteen (14) days within which the vehicle may be reclaimed.

3-321-771 UNAUTHORIZED REMOVAL OF VEHICLE:

1. It shall be unlawful for any person to remove a vehicle from the facility where it is being held without the prior payment of accrued fines and costs for each outstanding violation, towing, preservation and storage charges, and a city administrative fee of twenty dollars (\$20.00) payable to the City of New Vienna resulting from placing the vehicle in custody and the costs of the notice required pursuant to section 3-321-791 of this division.

2. The County Sheriff is authorized to summarily re-impound any vehicle removed in violation of this section.

3-321-772 AUCTION OF VEHICLES. If a vehicle has not been reclaimed as provided in section 3-321-770 of this division, the County Sheriff shall dispose of such vehicle as provided by the code of Iowa.

3-321-773 to 3-321-799 RESERVED.

3-321-800 VEHICULAR NOISE:

1. It shall be unlawful for any person to make, continue or cause any disturbing, excessive or offensive noise, which results in discomfort or annoyance to any reasonable person of normal sensitivity by means of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

2. The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in such a manner so as to be audible at a distance of two hundred feet (200') from the motor vehicle shall constitute evidence of a prima facie violation of this Section.

The scheduled fine for a violation of this Section shall be fifty dollars (\$50.00).

3-321-801 to 3-321-804 RESERVED.

3-321-805 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this Section.

3. The scheduled fine for a violation of this Section shall be fifty dollars (\$50.00).

3-321-806 to 3-321-899 RESERVED.

3-321-900 OPERATION OF VEHICLES WITH CATERPILLAR WHEELS OR HEAVY LUGS RESTRICTED. Tractors or other machinery moving on caterpillar wheels or having heavy lugs shall not be permitted to be moved over any of the streets without first securing a route from the city mayor, and it shall be unlawful to move such vehicle over any street other than shown in such routing instructions.

3-321-901 Motor Truck Routes.

1. Every motor vehicle weighing five tons or more, when loaded or empty, having no fixed terminal within the City or making no schedule 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: Columbus Street (Highway 136); Main Street from Columbus Street to west City limits; New Vienna Road.

2. Any motor vehicle weighing five tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from the designated route.

3. Motor trucks whose trips originate within the city shall travel by the most direct route to that point on a marked highway nearest to such point of origin.

Motor trucks entering the city on an unmarked highway shall proceed to the nearest marked highway by the most direct route and then proceed to their destination, except when the destination lies between the point of entry into the city and the marked highway.

The city mayor is authorized to designate and establish by appropriate signs alternate motor truck routes and to post signs limiting motor trucks registered with a gross weight limit exceeding ten thousand (10,000) pounds (5 tons) from operating on non-highway streets.

The provisions of this section governing the travel of motor trucks on residential streets shall not apply to public or private carriers of passengers on tour, fixed demand response or dial-a-ride



routes or school or church buses.

4. 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.

### 3-321-902 MOTOR TRUCK ROUTES PROHIBITED ON DESIGNATED STREETS.

1. Motor trucks registered for a gross weight limit exceeding ten thousand (10,000) pounds (5 tons) shall not travel over any streets other than what is listed in the Business District. 3-321-1. Business district means Columbus between Harrison Street and Jefferson Street; Iowa Street between New Vienna Road and Main Street; Jefferson Street between Columbus Street and the Maquoketa River; Main Street between Fork Street and Iowa Street; New Vienna Road between Columbus Street and Iowa Street.

(Ord. 4-2, passed November 4, 2002)

The city council when appropriate shall post signs limiting motor trucks registered with a gross weight limit exceeding ten thousand (10,000) pounds (5 tons) from operating on the streets designated in subsection (a) of this section.

2. The scheduled fine for a violation of this section shall be fifty dollars (\$50.00).

### 3-321-903 to 3-321-999 RESERVED.

3-321-1000 ARREST, NOTICE TO APPEAR. Whenever a peace officer has reasonable cause to believe that a person has violated any provisions of this chapter, such officer may:

1. Immediately arrest such person; or

2. Without arresting the person, prepare in triplicate a written summons to appear in court containing the name and address of such person, the operator's or chauffeur's licensee number if any, the registration number if any, of such person's vehicle, the offense charged, and the time when and the place where such person shall appear in court.

### 3-321-1001 RECORDS OF VIOLATIONS.

1. The clerk of court shall keep a full record of every case in which a person is charged with any violation of this chapter.

2. Within ten (10) days after a conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter, the clerk of court shall prepare and immediately forward to the department of public safety an abstract of the record of the court covering the case in which such person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct.

3-321-1002 AUTHORITY OF PEACE OFFICERS TO STOP VEHICLES. Any peace officer is authorized to stop any vehicle to require exhibition of the driver's operator or chauffeur license, to serve a summons or warning of traffic violation, to inspect the condition of the vehicle, to inspect

the vehicle with reference to size, weight, cargo, bills of lading or other manifest of employment and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order or permit of such vehicle.

3-321-1003 to 3-321-1999 RESERVED.

3-321-2000 MOVING VEHICLE INTO PROHIBITED AREA. No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

3-321-2001 REPAIRS. No person shall repair or cause to be repaired any vehicle in the streets or alleys, except in cases of emergency.

3-321-2002 OPERATION OF ADVERTISING VEHICLES. No person shall operate any vehicle upon the streets, which by loudspeakers or mechanical devices, is used to advertise events or the sale of goods, wares or merchandise.

3-321-2003 to 3-321-2999 RESERVED.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 4 HAZARDOUS WASTES AND SUBSTANCES

3-4-1	Purpose	3-4-5	Notifications
3-4-2	Definitions	3-4-6	Police Authority
3-4-3	Cleanup Required	3-4-7	City Liability
3-4-4	Liability for Cleanup Costs		

3-4-1 PURPOSE. In order to reduce the danger to public health, safety and welfare from the storage, transportation, and spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills, leakage or release of hazardous substances which create an immediate or potential danger to the public health or safety within the limits of the City of New Vienna, Iowa.

3-4-2 DEFINITIONS. For the purpose of this Ordinance, these terms have the following meanings:

1. "Hazardous waste" means such wastes as defined in Section 455B.411(3)(a), Code of Iowa.
2. "Hazardous substance" means any substance as defined in Section 455B.381(5), Code of Iowa.
3. "Hazardous condition" means any circumstance as defined in Section 455B.381(4), Code of Iowa.
4. "Person having control over a hazardous substance" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous condition, including bailees, carriers, and any person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance, as defined in Section 455B.381(7), Code of Iowa.
5. "Cleanup" means the same as defined in Section 455B.381(1), Code of Iowa.
6. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safe for transport, amenable for recovery and for storage, or to reduce it in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it nonhazardous.
7. "Authorized person" means the Mayor or his or her duly appointed designee.

### 3-4-3 CLEANUP REQUIRED.

1. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of a hazardous substance or waste has entered or may enter the environment, be emitted into the air, or discharged into any waters, including ground waters, the person having control over a hazardous substance shall alleviate the condition by cleanup or treatment, as defined by Section 3-4-2(5) and (6) of this chapter, and shall restore the affected area to its condition prior to the hazardous condition as far as practicable. The cost of cleanup or treatment shall be borne by the person having control over a hazardous substance.

2. If the person having control over a hazardous substance cannot be located within a reasonable period of time, or if the person having control over a hazardous substance does not cause the cleanup or treatment to begin within a time reasonable in relation to the hazard and circumstances of the incident, the City may, by the authorized person, give notice which shall be reasonable considering the character of the hazardous condition. The notice shall state a deadline for accomplishing the cleanup or treatment and state that the City will proceed to procure cleanup or treatment services if the cleanup or treatment is not accomplished within the deadline. The notice shall set forth a reasonable estimate of the cost of cleanup or treatment and state that the person having control over a hazardous substance will be billed for all costs associated with the cleanup or treatment, including but not limited to equipment rendered unserviceable, personnel costs (including overtime), disposal costs and any other costs associated with the cleanup or treatment.

3. If the bill for the above services is not paid within thirty (30) days, the City may proceed, after service of notice, either by certified mail or by one publication in a newspaper having general circulation within the City, and hearing before the City Council, to obtain payment by all available legal means.

4. If the cost of cleanup or treatment is beyond the capacity of the City to finance it, the authorized person shall proceed pursuant to Section 455B.387(2), Code of Iowa, and immediately seek any state or federal funds available for such cleanup or treatment.

3-4-4 LIABILITY FOR CLEANUP COSTS. The person having control over a hazardous substance shall be strictly liable to the City for all of the following:

1. Those costs set forth in Section 3-4-3(2) of this chapter.
2. The reasonable costs incurred by the City to evacuate persons from the area threatened by a hazardous condition caused by the person having control over a hazardous substance.
3. Reasonable damages for injury to, destruction of, or loss of City property, including parts and roads, resulting from a hazardous condition caused by the person having control over a hazardous substance, including the cost of assessing the injury, destruction or loss.

### 3-4-5 NOTIFICATIONS.

1. Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Mayor of the occurrence of a hazardous situation as soon as

possible, but no later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The Mayor shall immediately notify the Department of Natural Resources.

2. Any municipal employee or fire department personnel who discovers a hazardous condition shall immediately notify the Fire Chief and Dubuque County Sheriff. The authorized person shall notify proper state authority in the manner established by state regulation.

3-4-6 POLICE AUTHORITY. If the circumstances so require, the authorized person may:

1. Order the evacuation of persons to areas away from the site of a hazardous condition, and/or

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to such site to persons engaged in cleanup or treatment.

No person shall disobey an order of the authorized person or any law enforcement official acting under direction of the authorized person issued under this section.

3-4-7 CITY LIABILITY. Except where the City is the person having control as defined in Section 3-4-2(4) of this chapter, the City shall not be liable to any person for claims of damages, injuries, or loss resulting from any hazardous condition.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 5 FIRE PROTECTION**

- |       |                           |       |  |
|-------|---------------------------|-------|--|
| 3-5-1 | Establishment and Purpose | 3-5-4 | Worker's Compensation<br>and Hospitalization Insurance |
| 3-5-2 | Volunteer Fire Fighters   | 3-5-5 | Liability Insurance                                    |
| 3-5-3 | Fire Fighter's Duties     | 3-5-6 | Fires Outside City Limits                              |

3-5-1 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)

3-5-2 VOLUNTEER FIRE FIGHTERS. Thirty-five (35) residents of New Vienna, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter.

(Code of Iowa, Sec. 362.10)

3-5-3 FIRE FIGHTER'S DUTIES. When called by the Chief, all fire fighters shall report for duty immediately in the manner directed by the Chief. They shall be subject to call at any time. They shall obey strictly the commands of any other fire fighter who has been appointed by the Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Chief.

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

3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-5-5 LIABILITY INSURANCE. The City 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.

3-5-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

(Code of Iowa, Sec. 364.16)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 6 CURFEW FOR MINORS

3-6-1	Preamble	3-6-5	Defenses
3-6-2	Findings and Purpose	3-6-6	Enforcement
3-6-3	Definitions	3-6-7	Penalty, Municipal Infraction
3-6-4	Offenses		

3-6-1 PREAMBLE. The City of New Vienna recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of New Vienna; and

Persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of New Vienna has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. Curfew hours means 11:00 p.m. until 6:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

4. Guardian means:
  - a. A person who, under court order, is the guardian of the person of a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 17 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
  - a. A biological parent, adoptive parent, or step-parent of another person; or
  - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. Remain means to:
  - a. Linger or stay; or
  - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.
2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.



3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of New Vienna, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of New Vienna, a civic organization, or another similar entity that takes responsibility for the minor;
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - i. Married or had been married.

2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the Police of the City of New Vienna.

3-6-7 PENALTY, MUNICIPAL INFRACTION. The violation of this chapter shall be a municipal infraction with penalties not to exceed those contained in the City Code.

"Editor's Note: The courts have carefully scrutinized curfew Ordinances and before enacting such an Ordinance, you should consult with your City Attorney. See Maquoketa v. Russell, 484 NW2d, 179 (Iowa 1992) and Quit v. Strauss, 8 F2d 260 (1993)."

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 7 RESERVED**

## TITLE III COMMUNITY PROTECTION

### CHAPTER 8 CIGARETTE LICENSE

3-8-1	Definitions	3-8-6	Refunds
3-8-2	Permit Required	3-8-7	Suspension; Revocation; Civil Penalty
3-8-3	Issuance	3-8-8	Permits not Transferable
3-8-4	Expiration	3-8-9	Display
3-8-5	Fees		

3-8-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(2))

2. "Retailer" means and includes every person in this state who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.

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

3. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are stored, within or without the State of Iowa, by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(17))

3-8-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of New Vienna, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

3-8-3 ISSUANCE. The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.

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

3-8-4 EXPIRATION. Permits expire on June 30 of each year.

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

3-8-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

(Code of Iowa, Sec. 453A.13(3))  
(Amended during 2009 codification)

3-8-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.

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

3-8-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Section 453A.2, 453A.36, subsection 6 or 453A.39, Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.

c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 4 against assessment of a penalty

pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

(Amended during 2009 codification)

2. If a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

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

(Ord. 4-2, passed November 4, 2002)

3-8-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

3-8-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13(10))

## TITLE III COMMUNITY PROTECTION

### CHAPTER 9 ALCOHOLIC BEVERAGES

3-9-1	Purpose	3-9-3	Action by Council
3-9-2	Required Obedience to Provisions of this Chapter and State Law	3-9-4	Transfers

3-9-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

3-9-2 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers  
(Ord. 4-2, passed November 4, 2002)
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation

- 14. 123.44 Gifts of Liquors Prohibited
- 15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Exoneration
- 16. 123.47 Persons Under Legal Age - Penalty  
(Ord. 4-2, passed November 4, 2002)
- 17. 123.49 Miscellaneous Prohibitions
- 18. 123.50 Criminal and Civil Penalties
- 19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
- 20. 123.52 Prohibited Sale
- 21. 123.90 Penalties Generally
- 22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
- 23. 123.122 through 123.145 Beer Provisions (Division II)
- 24. 123.150 Sunday Sales Before New Year's Day
- 25. 123.171 through 123.182 Wine Provisions (Division V)
- 26. 321.284 Open Containers in Motor Vehicles - Drivers  
(Ord. 4-2, passed November 4, 2002)
- 27. 321.284A Open Containers in Motor Vehicles - Passengers  
(Ord. 4-2, passed November 4, 2002)

3-9-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.  
(Code of Iowa, Sec. 123.32(2))

Liquor, Wine and Beer Permits: In order to be placed on the agenda for a council meeting, the Online Renewal Application must be filed electronically and verified by your dram shop insurance company, no later than one week before council meeting.

NEW Liquor, Wine and Beer Permits: In order to be placed on the agenda for a council meeting, the New Applicants must fill out an Online New Application and must be filed electronically and verified by your dram shop insurance company, no later than one month before a council meeting. In this way, all paperwork can be checked over and a thorough background check completed.  
(Amended during 2009 codification)



3-9-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 10 JUNK VEHICLES**

3-10-1	Purpose	3-10-8	Junk Vehicles Declared a Nuisance
3-10-2	Definitions	3-10-9	Notice to Abate
3-10-3	Removal of Abandoned Vehicles	3-10-10	Abatement by Municipality
3-10-4	Notification of Owners and Lienholders	3-10-11	Collection of Cost of Abatement
3-10-5	Impoundment Fees and Bonds	3-10-12	Exceptions
3-10-6	Hearing Procedures	3-10-13	Interference with Enforcement
3-10-7	Auction or Disposal of Abandoned Vehicles		

3-10-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-10-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:

a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle totally inoperable; or

b. A vehicle that has remained illegally on public property for more than twenty-four; or  
(Ord. 4-2, passed November 4, 2002)

c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or

(Ord. 4-2, passed November 4, 2002)

d. A vehicle that has been legally impounded by order of the County Sheriff and has not been reclaimed for a period of ten days; or

e. Any vehicle parked on the street determined by the County Sheriff to create a hazard to other vehicular traffic.

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

2. "Private property" means any real property within the City which is not public property

as defined in this section.

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

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

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

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

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

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

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

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

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

### 3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The County Sheriff may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The County Sheriff or City Council may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the County Sheriff shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

#### 3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of state law, the Chief of Police shall notify, within three days, by certified mail with five-days return receipt, 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 their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:

(1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;

(Ord. 4-2, passed November 4, 2002)

(2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;

(3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;

(4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.

e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of section 3-10-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.

(Ord. 4-2, passed November 4, 2002)

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by section 3-10-5.

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

2. The owner or any person receiving notice may, by written request received by the County Sheriff prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

(Ord. 4-2, passed November 4, 2002)

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

a. the identity of the last registered owner cannot be determined, or

b. the registration contains no address for the owner, or

c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

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

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

(Ord. 4-2, passed November 4, 2002)

### 3-10-5 IMPOUNDMENT FEES AND BONDS.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the County Sheriff evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

a. an impoundment fee

b. towing charges

- c. preservation charges
- d. storage charges
- e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

a. the fees required by Sec. 3-10-5(1)

b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

3-10-6 HEARING PROCEDURES. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

(Ord. 4-2, passed November 4, 2002)

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The County Sheriff shall follow the procedures in state law for the auction or disposal of abandoned vehicles.

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

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of New Vienna, Iowa, 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 vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

3-10-9 NOTICE TO ABATE.

1. Whenever the County Sheriff shall find a junk vehicle placed or stored on public or private property within the City in violation of 3-10-8, the County Sheriff shall notify, by certified mail with five-days return receipt, the following persons:

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

- a. the owner of the property
  - b. the occupant of the property
2. The notice to abate shall:
- a. describe, to the extent possible, the year, make, model, and color of the vehicle
  - b. describe the location of the vehicle
  - c. state that the vehicle constitutes a nuisance under the provisions of this chapter
  - d. state that the owner of the property shall remove or repair the said junk vehicle within ten days

(Ord. 4-2, passed November 4, 2002)

3-10-10 ABATEMENT BY MUNICIPALITY. 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 City Clerk who shall pay such expenses on behalf of the municipality.

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

3-10-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred 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 the costs shall then be collected with, and in the same manner, as general property taxes.

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

(Ord. 4-2, passed November 4, 2002)

3-10-12 EXCEPTIONS. This chapter shall not apply to the following:

1. A vehicle in an enclosed building.
2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-10-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 11 - RESERVED**



**TITLE III COMMUNITY PROTECTION**

**CHAPTER 12 NO SMOKING**

3-12-1	Purpose	3-12-5	Smoking Prohibited in Specified Outdoor Areas
3-12-2	Definitions	3-12-6	Exceptions
3-12-3	Smoking Prohibited in Public Places	3-12-7	Signs Required
3-12-4	Smoking Prohibited in Places of Employment	3-12-8	Enforcement
		3-12-9	Additional Private Prohibitions

3-12-1 PURPOSE. It is recognized that smoking of tobacco-related products is hazardous to the health of both smokers and nonsmokers who are exposed to smoking. Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers, particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction, and bronchospasm. This ordinance is adopted for the purpose of protecting the public health, safety, comfort, and general welfare of the people of the City of New Vienna, especially recognizing the health interests of nonsmokers, who constitute a majority of the population.

3-12-2 DEFINITIONS. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Ball Diamond" means a facility in which ball games are played (especially baseball games).
2. "Bleachers" means tiered seats consisting of a structure (often made of wood or metal) where people can sit to watch an event (game or parade).
3. "City Attorney" means the City Attorney for the City of New Vienna, Iowa or his or her designee.
4. "Employee" means any person who performs services for an employer, with or without compensation.
5. "Employer" means any person, partnership, association, corporation, trust, or other organized group of individuals or entity, whether public or private, which utilizes the services of one (1) or more employees.

6. “Enclosed Area” means a space in any structure or building that is bound on all sides by any combination of walls, half walls, windows, or doorways extending from floor to the ceiling, regardless of whether the windows or doors are open or closed.

7. “Person(s)” means an Employer, an Employee or a customer or other visitor on the premises regulated herein.

8. “Place of Employment” means any Enclosed Area under the control of an Employer which Employees normally frequent during the course of employment, including, but not limited to, common work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias, and hallways and stairways and other common areas of a building or structure.

9. “Private Club or Lodge” means a bona fide organization, whether incorporated or not, which is the occupant of a building or a portion of a building that has a different address, a separate entrance and not connected by common doors or passageways with any other business within the building, and which is used solely and exclusively for social, benevolent, patriotic, recreational or fraternal purposes, and not pecuniary gain or profit, and no part of the net earnings of which inures to the direct benefit of any member or shareholder, and if engaged in the sale of beer, wine, porter, ale or alcoholic beverages, such is incidental to its main purpose, and which maintains on the premises a complete membership list showing the date of application of the proposed member, the date of admission after election, the date initiation fees and dues are paid, the amount paid by each member and each member’s correct mailing address. No organization shall qualify as a private club or lodge under this section if it admits members on demand by payment of a nominal fee.

10. “Private Office” means an independent work space or area separated from the remainder of a Place of Employment by four walls and a door, from floor to ceiling, and which is not immediately accessible to the general public or Employees not assigned to work therein. Cubicle work spaces do not constitute a private office.

11. “Public Place” means any Enclosed Area to which the public is invited or in which the public is permitted to convene, conduct business or recreate, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, recreational facilities, restaurants, establishments engaged in the sale or distribution of beer, wine, ale, porter or alcoholic beverages for on-premise consumption, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters, waiting rooms and Service Lines.

12. “Service Line” means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

13. “Shelter,” or “Pavilion” means a light, sometimes ornamental roofed structure, used for amusement or shelter, as at parks or fairs.

14. “Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette,

pipe or other tobacco product in any manner or in any form.

3-12-3 SMOKING PROHIBITED IN PUBLIC PLACES. Except as provided in section 3-12-6 smoking in any public place shall be unlawful, including, but not limited to the following:

1. Theatres, libraries, museums, auditoriums, and convention halls which are used by or open to the public.

2. Child care facilities.

3. Retail stores.

4. Health care facilities.

5. Waiting rooms, hallways, and rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist, optician, or other medical service provider.

6. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, and other multiple-unit residential facilities.

7. Restrooms, lobbies, reception areas, hallways, and other common areas which are used by or open to the public.

8. Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political, or social purposes.

9. Polling places.

10. Self-service laundry facilities.

11. Restaurants.

12. Bars, taverns, nightclubs, and cocktail lounges.

13. City facilities, meaning all city-owned and operated buildings and vehicles and those portions of buildings leased and operated by the city.

14. Educational facilities, meaning any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

15. Recreational areas, meaning gymnasiums, health spas, swimming pools, and other similar places where the public assembles to engage in physical exercise, participate in athletic event competition, or witness a sporting or other event.

16. Common areas in bed and breakfast establishments, hotels and motels, and rooms thereof that are rented to guests and designated as non-smoking rooms including lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas, and restrooms within said facilities.

17. Sheltered areas, pavilions or any other covered areas in a park or ball diamond.

3-12-4 SMOKING PROHIBITED IN PLACES OF EMPLOYMENT.

1. Except as provided in section 3-12-6 smoking in any place of employment shall be unlawful.

2. This prohibition on smoking shall be communicated to all existing employees prior to the effective date of this ordinance and to all prospective employees upon their application for employment.

3-12-5 SMOKING PROHIBITED IN SPECIFIED OUTDOOR AREAS. Smoking shall be unlawful in the following areas:

1. Within a reasonable distance of all outside entrances to, operable windows of, or ventilation systems of public places or places of employment where smoking is prohibited pursuant to section 3-12-3 and 3-12-4 so as to prevent smoke from entering said enclosed areas in which smoking is prohibited.

2. In or near the bleachers and grandstands used by spectators at sporting and other public events, including, without limitation, the city park and ball diamond.

3. Those portions of city parks temporarily posted as no smoking areas by the parks and recreation department at the request of a park permit holder or park facility lessee or when necessary for the public health or safety.

4. Those areas outside of city facilities that are posted as no smoking by the city manager or his or her designee.

3-12-6 EXCEPTIONS. The following shall not be subject to and are exempt from the smoking prohibitions of this chapter:

1. Use of tobacco by an enrolled member of an Indian tribe as part of a traditional spiritual or cultural ceremony.

2. Bed and breakfast establishments and hotel and motel rooms that are rented to guests and are designated as smoking rooms, provided that not more than twenty-five percent (25%) of the rooms rented to guests are designated as smoking rooms. This exception does not include common areas as defined in section 3-12-3.

3. Private residences, except when used as a child care facility, adult day care facility, or health care facility.

4. Private clubs, except when used for a function to which the public is invited or permitted to enter. This exception shall not apply to any organization established to avoid compliance with the ordinance.

### 3-12-7 SIGNS REQUIRED.

1. Signs prohibiting smoking shall be posted conspicuously at every entrance by the proprietor or other person in charge of each building or structure regulated by section 3-12-3 and 3-12-4. Signs in specified outdoor areas designated as non-smoking pursuant to section 3-12-5 shall be placed so that the general public has reasonable notice of the prohibition. Signs shall contain a reference that regulation is by ordinance, such as “No Smoking - City Ordinance Title III, Chapter 12”, or equivalent. A sign, provided by or approved by the health department, shall not be smaller than 8 1/2" x 5 1/2", except that signs in specified outdoor areas may be reduced in size and displayed on table top tents or menus.

2. It shall be unlawful for any person to remove, deface, or destroy any legally required “No Smoking” sign.

### 3-12-8 ENFORCEMENT.

1. The proprietor or other person in charge of premises regulated hereunder shall make reasonable efforts to prevent smoking in prohibited areas by:

a. Approaching persons who fail to voluntarily comply with this chapter and requesting that they extinguish their smoking material and refrain from smoking upon witnessing the same or upon request from any person.

b. Any other means which may be deemed appropriate by said proprietor, including refusal of service to anyone smoking in a prohibited area.

2. No proprietor or other person in charge of premises regulated by this chapter shall place, provide, or make available any ashtray or similar device used to facilitate smoking in an area where smoking is prohibited.

3. Any person who desires to register a complaint under this chapter may contact the city-county health department.

4. No person shall discharge, refuse to hire, refuse to serve, or in any other manner retaliate against any employee, applicant for employment, customer, service user, business patron, or any other person because that person exercises any rights afforded by this chapter.

5. The city-county health department, building inspections division, fire department, police

department, or parks & recreation department shall have the power, whenever it may deem necessary, to enter a building, structure, or property regulated under this chapter to ascertain whether the premises are in compliance with this chapter. The above-listed departments may issue compliance orders and citations pursuant to the provisions of this code.

3-12-9 ADDITIONAL PRIVATE PROHIBITIONS. Nothing in this ordinance shall prevent a proprietor or other person in charge of any place from prohibiting smoking in any indoor or outdoor area under their control.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 13 FIREWORKS ORDINANCE**

3-13-1	Definitions	3-13-6	Permits Required
3-13-2	Violations	3-13-7	Seizure of Fireworks
3-13-3	Prohibitions	3-13-8	Emergency
3-13-4	Sale of Consumer Fireworks		
3-13-5	Restrictions on the Use of Consumer Fireworks		

3-13-1 DEFINITIONS. The following words, terms, and phrases, when used in this Article, shall have the meaning as set forth in this section, except where the context clearly indicates a different meaning:

1. "Consumer Fireworks" includes First-Class Consumer Fireworks and Second-Class Consumer Fireworks as those terms are defined in Section 100.19 and Chapter 727 of the Iowa Code. Consumer Fireworks do not include Novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1 or Display Fireworks enumerated in Chapter 4 of the American Pyrotechnics Association's Standard 87-1.

2. "Display Fireworks" include any explosive composition, or combination of explosive substances, or article prepared for the purpose of providing 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 American Pyrotechnics Association's Standard 87-1.

3. "Fireworks" means Consumer Fireworks and Display Fireworks. Fireworks does not include Novelties as defined in American Pyrotechnics Association's Standard 87-1, Chapter 3, and that comply with the labeling regulations promulgated by the United States Consumer Products Safety Commission.

3-13-2 VIOLATIONS.

1. Any person who fails to perform an act required by the provisions of this Chapter, or who commits an act prohibited by the provisions of this Chapter, shall be guilty of a simple misdemeanor punishable by a fine or punishable as a municipal infraction civil penalty as set forth in this Code.

2. A person may be prosecuted under the public nuisance provisions set forth in this Code and/or any other remedy available at law, to address any failure to perform an act required by the provisions of this Chapter or any action prohibited by the provisions of this Code of Ordinances or Code of Iowa.

3. A person who sells Consumer Fireworks to a person who is less than eighteen (18) years of age commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

4. A person who is less than eighteen (18) years of age who purchases Consumer Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

5. A person who uses or explodes Consumer Fireworks in violation of this Article commits a simple misdemeanor, punishable by a fine of \$250.00.

6. A person who uses or explodes Display Fireworks while the use of such device is in violation of this Article commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

7. A person who is less than eighteen (18) years of age who uses or explodes Consumer Fireworks or Display Fireworks commits a simple misdemeanor, punishable by a fine of not less than \$250.00.

### 3-13-3 PROHIBITIONS.

1. It shall be unlawful to manufacture fireworks within the City limits.

2. It shall be unlawful to sell Display Fireworks within the City limits.

3. It shall be unlawful for a person to possess, use or explode Display Fireworks, except in possession of and in compliance with all requirements of a permit issued by the City under this Ordinance.

### 3-13-4 SALE OF CONSUMER FIREWORKS.

1. It shall be unlawful for a person to offer for sale, expose for sale, or sell Consumer Fireworks, unless the person is a retailer or community group as defined in Chapter 100, Iowa Code, and possesses and complies with all requirements of a Consumer Fireworks seller license issued by the State Fire Marshall.

2. Consumer Fireworks may only be sold during the dates and times as established by the Iowa Code.

3. Consumer Fireworks may only be sold in zoning districts within the City that permit retail sales. Fireworks may not be sold on public property or within a residential zoning district.

### 3-13-5 RESTRICTIONS ON THE USE OF CONSUMER FIREWORKS.

1. A person shall not 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.

2. A person shall not use or explode Consumer Fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m.



3. A person shall not 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. Persons using or exploding Consumer Fireworks must be at least eighteen (18) years of age or older.

5. Persons using or exploding Consumer Fireworks are prohibited from being under the influence of alcohol or other drugs or a combination of such substances, while having a blood alcohol concentration of .08 or more or while having any amount of a controlled substance in the person's body.

6. Any use or explosion of Consumer Fireworks must be more than 400 feet from an assisted living facility, nursing home, hospital, retirement home, or hospice.

7. Any use or explosion of Display Fireworks must be more than 800 feet from an assisted living facility, nursing home, hospital, retirement home, or hospice.

8. No use or explosion of Consumer Fireworks is allowed on any public property, including parks, cemeteries, public rights-of-way, public parking lots, or sidewalks.

9. A person who violates this subsection commits a simple misdemeanor.

### 3-13-6 PERMITS REQUIRED.

1. A permit must be obtained from the City in order to use or explode Display Fireworks. In order to obtain a permit, the applicant must comply with City permitting and insurance requirements.

2. Application for a permit must be made, in writing, and filed at the Office of the City Clerk, at least sixty (60) days in advance of the proposed display.

### 3-13-7 SEIZURE OF FIREWORKS.

1. The Fire Chief may seize, take, remove, or cause to be removed, at the expense of the owner, all Consumer Fireworks or Display Fireworks, offered or exposed for sale, used, stored, possessed, or held in violation of this Chapter.

### 3-13-8 EMERGENCY.

1. When, in the opinion of the Fire Chief, weather and soil conditions create a safety emergency so that the use of Consumer Fireworks and/or Display Fireworks creates a danger to the public or property, the Fire Chief may suspend, cancel, or prohibit the use of Consumer Fireworks and/or Display Fireworks.

**(ECIA Model Code Amended in 2017)**

## TITLE IV MENTAL AND PHYSICAL HEALTH

### CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-6	Vicious Dogs and Cats and Dangerous Animals
4-1-2	Immunization	4-1-7	Kennels
4-1-3	At Large Prohibited	4-1-8	Livestock and Poultry Prohibited
4-1-4	Actions of Dogs Constituting a Nuisance	4-1-9	Keeping a Vicious Animal
4-1-5	Impounding		

4-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. The term "at large" shall mean any dog found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.

2. The term "dangerous animal" shall mean the following animals, whether vicious or not:

- a. Lions, tigers, jaguars, leopards, cougars, lynx, ocelots and bobcats.
- b. Black bears, brown bears, polar bears, and grizzly bears.
- c. Crocodiles and alligators.
- d. All venomous and constricting snakes.
- e. Pit Bull Terriers, including the following:
  - (1) The bull terrier breed of dog.
  - (2) The Staffordshire bull terrier breed.
  - (3) The American Staffordshire terrier breed.
  - (4) The American pit bull terrier breed.
  - (5) Dogs of mixed breed or other breeds which are known as pit bulls, pit bulldogs, or pit bull terriers.
  - (6) Any dog which has the appearance or characteristics of being predominately of the breeds listed above.
- f. The Rottweiler breed of dog.

g. Birds of prey such as, but not limited to, falcons, eagles, and hawks.

3. The term "dogs" shall mean both male and female animals of the canine species whether altered or not.

4. The term "owner" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.

(Code of Iowa, Sec. 351.2)

5. The term "vicious cat" shall mean any cat (*felis catus*) which has bitten a human being or has attacked a human being or domesticated animal without cause or justification.

6. The term "vicious dog" shall mean any dog which has bitten a human being or has attacked a human being or domesticated animal without cause or justification.

(Ord. 2-01, Passed May 6, 2002)

4-1-2 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

(Ord. 2-01, Passed May 6, 2002)

4-1-3 AT LARGE PROHIBITED. No owner of any dog shall permit such dog to run at large.

(Code of Iowa, Sec. 351.41)

(Ord. 2-01, Passed May 6, 2002)

An animal can be walked off the premises as long as the animal is on a leash not more than six feet in length and under the control of a person competent to restrain and control the animal.

4-1-4 ACTIONS OF DOGS CONSTITUTING A NUISANCE. It shall be unlawful for any person to permit a dog under such person's control or within such person's custody to commit a nuisance. A dog shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on sidewalks, streets, alleys, parks and recreation areas unless such waste is immediately removed and properly disposed of by the owner. Do not dispose of excrement in storm sewers or street gutters, but shall be picked up and disposed of in a sanitary manner in an appropriate refuse container.

2. Causes unsanitary, dangerous or offensive conditions. An owner or custodian of any animal shall keep all structures, pens, coops, or yard wherein an animal is confined clean and free from excrement and the odor arising from excrement. Such area shall also be clean and free of vermin and anything that is likely to become putrid, offensive, or injurious to health. An area, structure, pen, coop, or yard not maintained in a clean and sanitary condition may be declared a public nuisance.

3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(Code of Iowa, Sec. 657.1)

#### 4-1-5 IMPOUNDING.

1. Any dog found at large in violation of the provisions of this Chapter shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

2. Impounded dogs may be recovered by the owner, upon proper identification, payment of impounding fees charged by the Dubuque County Humane Society plus a cost of \$50.00 for transportation to the Humane Society facility, and the costs of vaccination if vaccination is required by Section 4-1-2. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

(Code of Iowa, Sec. 351.37)

(Ord. 2-01, Passed May 6, 2002)

(Amended during 2009 codification)

4-1-6 VICIOUS DOGS AND CATS AND DANGEROUS ANIMALS. No person shall own, keep or harbor a vicious dog or cat or dangerous animal within the City of New Vienna. It shall be the duty of all police officers or other designated official to impound any vicious dog or cat or dangerous animal. In the event the animal cannot be impounded without exposing the person(s) attempting to impound the animal to danger or personal injury, the animal may be destroyed. The following are exempted from the prohibition of owning or keeping a dangerous animal within the City:

1. Public zoos, accredited educational or medical institutions where the animals are kept for the purpose of instruction and/or research, and public museums where the animals are kept as live specimens for public viewing.

2. Animals held for public exhibition by a traveling circus, carnival, exhibit or show.

3. Animals being kept by a licensed veterinarian or veterinary hospital for treatment.

4. Animals under the jurisdiction of and in the possession of the Department of Natural Resources.

5. Animals possessed under authority of a state-issued game breeder's license or scientific collector's license.

4-1-7 KENNEL. The use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats or both, or the keeping of five (5) or more dogs of six (6) months of age, or keeping seven (7) or more cats over six (6) months of age, or the keeping of more than seven (7) dogs and cats. The word "selling" as herein used shall not be construed to include the sale of animals six (6) months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over six (6) months old by persons not operating a kennel as herein defined.

(Amended during 2009 codification)

4-1-8 LIVESTOCK AND POULTRY PROHIBITED.

1. It shall be unlawful to maintain, keep or harbor any cattle, horses, jacks, goats, guinea fowl, ostriches, poultry (domestic chickens, turkeys, geese, and ducks), or similar domestic animals raised for home use or for profit within the city limits unless the property upon which such animals are maintained, kept or harbored is zoned as agricultural property. This section shall not apply to a bona fide zoological garden, pet shop, educational institute, circus, carnival, or veterinary hospital treating such animals.

2. It shall be unlawful for any person to ride any animal upon the public or private sidewalks within the city, nor shall any person ride any animal upon a public street or right of way during the hours of sunset to sunrise, except for public parades for which the City has been informed of.

3. The lawful keeping of livestock, which is otherwise unlawful by reason of the enactment of this ordinance, may be continued until such time as the person no longer keeps livestock upon property with the city upon which he or she maintained livestock prior to the enactment of this ordinance, or when such person transfers, sells or otherwise conveys the property upon which such livestock were maintained prior to the enactment of this ordinance. The burden of proving the maintenance of livestock upon a parcel of land within the city prior to the enactment of this ordinance shall lie with the person claiming such prior existence. Nothing herein shall be deemed to exempt an owner of livestock within the city limits from the enforcement of nuisance or other laws regarding the keeping of such livestock.

4-1-8 KEEPING A VICIOUS ANIMAL. An animal is deemed to be vicious when it has attacked, injured, or bitten any person without provocation or has exhibited the propensity to attack, injure, or bite persons or other domesticated animals, unprovoked, and such propensity is known to the owner or to reasonably have been known to the owner thereof.

1. An animal is deemed vicious under the following circumstances:
  - a. Has bitten or clawed a person without provocation on two separate occasions within a twelve (12) month period.
  - b. Did bite or claw a person, without provocation, causing injuries above the shoulders of a person.
  - c. Has attacked any domestic animal, without provocation, on more than two (2) separate occasions during the life of the animal.
  - d. Has killed any domestic animal, without provocation, while off the property of the attacking animal's owner.
  - e. Has bitten another animal or human, without provocation, that causes a fracture, skin puncture, laceration, cut, or injury to the other animal or human.

(ECIA Model Code Amended in 2020)

**TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE**

**CHAPTER 1 BALL PARK COMMISSION**

5-1-1	Purpose	5-1-4	Term of Office
5-1-2	Election of Officers	5-1-5	Powers
5-1-3	Compensation		

5-1-1 PURPOSE. That a Ball Park Commission is hereby created.

5-1-2 ELECTION OF OFFICERS. That the four officers elected by the New Vienna Athletic Association automatically become members of the Ball Park Commission with the approval of the Mayor and Council.

5-1-3 COMPENSATION. That the members of the Ball Park Commission shall serve without compensation.

5-1-4 TERM OF OFFICE. That the term of office of each member of the Commission shall be decided by the New Vienna Athletic Association.

5-1-5 POWERS. The Council may confer on such Commission all or any part of its powers in relation to the equipment, maintenance and conduct of the Ball Park.

**TITLE V HUMAN DEVELOPMENT**

**CHAPTER 2 PUBLIC SQUARE**

5-2-1	Definition	5-2-5	Unlawful Deposits
5-2-2	Season and Hours	5-2-6	Motor Vehicles Prohibited
5-2-3	Obstructions	5-2-7	Meetings and Gatherings
5-2-4	Posting and Distribution of Hand Bills and Posters	5-2-8	Fires

5-2-1 DEFINITION. As used in this chapter, public square shall mean that 158' x 126' parcel of property located immediately to the west of Columbus Street (Highway 136) and between Main Street to the north and Water Street to the south, all as designated on the original town plat filed for record on May 22, 1847.

5-2-2 SEASON AND HOURS. The public square shall be open to the public year-round except that same shall be closed to the public during the hours from 11:00 p.m. to 7:00 a.m.

5-2-3 OBSTRUCTIONS. No person shall place or suffer to remain in the public square any goods, wares, merchandise or other articles in the nature of any obstruction to the free use and enjoyment of same without written permission from the Mayor.

5-2-4 POSTING AND DISTRIBUTION OF HAND BILLS AND POSTERS. No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, fence, thing or enclosure along or within the public square nor shall any person distribute, display or broadcast any signs, circulars, cards, announcements, or advertising printed or otherwise, along or within the public square unless authorized in writing by the Mayor. This section does not apply to the posting, distribution or display of signs or notices relating to municipal matters and events posted, distributed, displayed or broadcasted by or on behalf of the City.

5-2-5 UNLAWFUL DEPOSITS. No person shall throw, deposit, place or leave in the public square any paper, rubbish, waste, or refuse of any kind or nature, but shall deposit the same in the receptacles provided for such materials.

5-2-6 MOTOR VEHICLES PROHIBITED. Motorcycles, motor scooters, go carts, cars, trucks and other motor driven devices shall not be operated upon the public square except for vehicles engaged in operations relating to the maintenance and security of the square.

5-2-7 MEETINGS AND GATHERINGS. No mass meeting, political meeting, entertainment, exhibits, band or procession shall be permitted in the public square without there first having been secured a written permit from the Mayor.

5-2-8 FIRES. No person shall start any fires in the public square, except that small fires for culinary purposes may be made by picnic parties in the place or places provided in the square for that purpose or in a portable grill provided by such party or parties.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 1 MOBILE HOME REGULATION**

6-1-1	Definitions	6-1-4	Emergency and Temporary Parking
6-1-2	Location of Mobile Homes	6-1-5	Traffic Code Applicable
6-1-3	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-6	Building Requirements
		6-1-7	Mobile Home Hookups

6-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "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 shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building Code, contains no state or federal seals, and was built before June 15, 1976.

(Code of Iowa, Sec. 435.1)

2. "Mobile home park" shall mean any site, lot, field or tract of land upon which three or more occupied mobile homes, manufactured homes, modular 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.

(Code of Iowa, Sec. 435.1(4))

(Ord. 4-2, passed November 4, 2002)

3. "Manufactured home" is a factory-built structure built under authority of 42 U.S.C. Section 5403, is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled.

4. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures.

(Code of Iowa, Sec. 435.1(7))

(ECIA Model Code Amended in 2010)

5. "Factory-built structure" means any structure 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. "Factory-built structure" includes the terms "mobile home," "manufactured home", and "modular home."

(Code of Iowa, Sec. 103A.3(8))

(ECIA Model Code Amended in 2010)



6-1-2 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by state law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation. Mobile homes shall not be placed in any floodplain areas, within the city limits.

(Amended during 2009 codification)

6-1-3 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council shall issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of one (1) year but upon expiration of a special permit reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.
2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.
3. A statement of the desired duration of the special permit.

6-1-4 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

6-1-5 TRAFFIC CODE APPLICABLE. The owner of a mobile home park may elect to have City traffic provisions of the City Code apply to real property in the mobile home park and any person located on the real property. The owner of a mobile home park may waive this right by filing a waiver with the county recorder.

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation except that any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement. The effective date of this Ordinance is November 4, 2002.

(Code of Iowa, Sec. 435.26)

(Ord. 4-2, passed November 4, 2002)

6-1-6 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an employee of the dealer may install a tie-down system on a mobile home located in a mobile home park. The connections are subject to inspection and approval by city officials and the

mobile home dealer shall pay an inspection fee of \$50.00. No additional permits shall be required.

(Code of Iowa, Sec. 322B.3)

(Ord. 4-2, passed November 4, 2002)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 2 UTILITIES - SANITARY SYSTEM**

6-2-1	Definitions	6-2-5	Use of the Public Sewers
6-2-2	Use of Public Sewers Required	6-2-6	Protection from Damage
6-2-3	Private Sewage Disposal	6-2-7	Powers and Authority to Inspectors
6-2-4	Building Sewers and Connections	6-2-8	Penalties

6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
2. "Inspector" shall mean any person or persons duly authorized by the municipality to inspect and approve the installation of building sewers and their connection to the public sewer system.
3. "Sewage" shall mean 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.
4. "Sewer" shall mean a pipe or conduit for carrying sewage.
5. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
6. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
7. "Sanitary Sewer" shall mean a sewer which carries sewage and to which, storm, surface, and ground waters are not intentionally admitted.
8. "Industrial Wastes" shall mean the liquid wastes from industrial processes as distinct from sanitary sewage.
9. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
10. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
11. "Person" shall mean any individual, firm, company, association, society, corporation or

group.

#### 6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste which ordinarily would be regarded as sewage or industrial waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property 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 of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance within thirty (30) days after date of official notice to do so.

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

(IAC 567-69.3(3))

5. The customer shall install and maintain at the customer's expense that portion of the service from the main to the customer's premises. The size and slope of the building sewers shall be subject to the approval of the authorized personnel of the city, but in no event shall the diameter be less than four (4) inches. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor.

#### 6-2-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of 6-2-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section and the Iowa Department of Natural Resources.

2. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

3. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

4. No statement contained in this article shall be construed to interfere with any additional

requirements that may be imposed by the Iowa Department of Natural Resources.

5. No statement contained in this ordinance shall be construed to require the City to extend an existing sewer main to a location abutting any house, building, or property used for human occupancy, employment, recreation or other purposes situated within the City. Any person desiring a sewer main extension shall apply for the same in writing to the City Clerk, who will make an investigation and submit the same with a recommendation to the City Council for their decision.

#### 6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No person or corporation shall hereafter make any connections to the City Sewer System either directly or indirectly without first making application therefore and obtaining a permit to do so from the City Clerk and paying the fees and connection charges established herein.

2. No sewer connection permit shall be issued unless a written application for the issuance of a sewer connection permit is submitted to the City Clerk. The written application shall state the name and address of the applicant: the nature, location and purpose of the connection, the description and area in square feet of the property to be served with reference to a properly recorded property plat, the date of commencement and the date of completion of the connection, and it shall contain an agreement by the owner of the property binding upon the property owner and his or her successors or assigns to comply with all rules and regulations now or hereafter established regulating the use of the sewer and agreeing to hold the City of New Vienna harmless from any loss, liability or damage from such connections on the use thereof.

3. Failure to apply to the City Clerk with the above required information shall be sufficient cause to deny issuance of a sewer connection permit. The City Clerk may refuse to issue the permit provided for in this ordinance to any former permit holder who has intentionally violated the provisions of this ordinance relating to sewer connections.

4. There shall be two (2) classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of \$10.00 dollars for a residential or commercial building sewer permit and \$30.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

(Amended during 2009 codification)

5. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the City. Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of New Vienna and deposited with the City Clerk a corporate surety in the sum of one thousand dollars (\$1,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of New Vienna pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of New Vienna and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness

or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of one (1) year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

6. All cost and expense incidental to the installation and connection 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.

7. Pursuant to the authority in Section 393.14 Code of Iowa as amended; when the application for connecting to the municipal sanitary utilities is filed with the City Clerk, the application shall be accompanied by a sewer connection fee. The sewer connection fee shall be \$400.00 for each connection either directly or indirectly into the SE Sewer Line, but shall in no case exceed the equitable portion of the total original cost to the City of extending the sanitary utilities to the near vicinity of the property served. The SE Sewer Line includes Hoeger's Subdivision and all other real estate adjacent to the SE Sewer Line consisting of twenty (20) lots. All other sewer connection fees within the City limits will be \$300.00

(Ord. 4-2, passed November 4, 2002)

(Amended during 2009 codification)

8. Special connection charge. If the property to be connected to a public sewer has not been assessed for any part of the cost of construction of the public sewers, or has not been assessed a connection charge by the City for the use of the public sewers before the permit is issued, the property owner shall pay a special connection charge. The amount of this charge shall be an equitable portion of the cost of the public sewers in relation to the benefits received by the property, and shall be determined by the City Council.

9. A separate and independent building sewer shall be provided for every 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, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the Inspector.

10. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Inspector, to meet all requirements of this Ordinance.

11. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Inspector. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer

shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

#### Vitrified Clay Pipe VCP

(1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

(2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

#### Extra Heavy Cast Iron Soil Pipe

(1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."

(2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

#### Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

(1) Pipe - ASTM D-3034, in accordance with ASTM D-1784, Cell Classification 12454-B.

Minimum wall thickness:

4" - SDR 23.5

6" - SDR 23.5

8" - SDR 35

10" - SDR 35

(2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Inspector. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the

foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material or where VCP or PVC pipe is used, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. For VCP or PVC pipe, gravel, coarse sand or similar material shall be used as backfill to a minimum of one foot (1') above the crown of the pipe. Back-filling shall not be done until final inspection is made by the Inspector. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

12. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Inspector. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Inspector or the Inspector's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

13. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

14. The connection of the building sewer into the public sewer shall conform to the requirements of the plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Inspector before installation.

15. Each and every part of the building sewer shall be inspected and approved by the Inspector before being concealed or back-filled. The applicant for the building sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or the Inspector's representative.

16. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

17. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.



18. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

19. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### 6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.

b. Non-Payment of bills.

c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.

2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Inspector. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Inspector, to a storm sewer, combined sewer, or natural outlet.

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

a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

c. 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.

d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of 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.

e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Inspector. Where necessary in the opinion of the Inspector, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) 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 Inspector and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. 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 Inspector 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 Inspector 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 prohibited are:

a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).

b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Inspector.

d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

e. 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 Inspector for such materials.

f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal,

or other public agencies with jurisdiction for such discharge to the receiving waters.

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

h. Any waters or wastes having a pH in excess of 9.5.

i. Materials which exert or cause:

(1) 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).

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

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

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

5. 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 6-2-5(4), and which in the judgment of the Inspector, 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:

a. Reject the wastes,

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge, and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

If the Inspector 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 Inspector, and subject to the requirements of all applicable Codes, Ordinances, and laws.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not

be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Inspector, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. 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.

8. When required by the Inspector, 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.

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

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

6-2-6 PROTECTION FROM DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's 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.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Inspector or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in 6-2-5(8).

3. The Inspector 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.

#### 6-2-8 PENALTIES.

1. The municipality shall make all reasonable efforts to eliminate interruption of service, and when such interruption occurs will endeavor to reestablish service with the shortest possible delay. Whenever the service is interrupted for purpose of working on the collection system or the treatment equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.

2. Any person found to be violating any provision of this Ordinance except 6-2-6 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.

3. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 3 UTILITIES - SEWER CHARGES**

6-3-1	Sewer Service Charge	6-3-6	City Clerk to Render Bills
6-3-2	Due Date of Service Charge	6-3-7	Lien for Non-Payment
6-3-3	Discontinuing Service; Fees	6-3-8	Sanitary Fund Account
6-3-4	Applications for Sewer Service	6-3-9	System of Accounts
6-3-5	Liability for Payment		

6-3-1 SEWER SERVICE CHARGE. There shall be and is hereby established a separate sewer service charge for each apartment or household living in the same dwelling or apartment house, and a separate charge for each business establishment and professional office, excepting where the consumer has his or her residence in the same building as his or her place of business or office, by the municipal sanitary sewer system of the City of New Vienna, upon a monthly basis payment every month to-wit:

1. That the City shall from April 1, 2018 charge and collect the following prices and rates for separate sewer services rendered: \$28.00 per month with an added charge equal to \$.75/1000 gallons of water used each month.

(Ord. 2-88, Passed July 5, 1988)  
(Ord. 1-98, Passed March 9, 1998)  
(Ord. 1-01, Passed May 1, 2001)  
(Amended during 2009 codification)  
(Ord. 2-18, Passed March 6, 2018)

6-3-2 DUE DATE OF SERVICE CHARGE. Bills for the rates and charges are herein established by the City and shall be sent out monthly. All bills shall be payable on or before the 15<sup>th</sup> of the month following the period of service and shall be paid at the office of the Clerk of the City. If any charge for services of the system shall not be paid by the 15<sup>th</sup> day after the month following the period of service in which it shall become due and payable, a charge of twelve percent (12%) of the bill shall be added thereto and collected therewith.

(Ord. 4-2, passed November 4, 2002)  
(Ord. 4-12, passed September 6, 2012)

6-3-3 DISCONTINUING SERVICE; FEES. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the sewer service shall be discontinued after the following procedures have been complied with:

1. The clerk shall send a disconnect notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date."

2. When a hearing is requested by a customer, the City Clerk shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the City Clerk may be appealed to the City Council.

(Code of Iowa, Sec. 384.84(2))

6-3-4 APPLICATIONS FOR SEWER SERVICE. Applications for sewer service shall be filed with the City Clerk upon a form to be supplied by the City. The application shall state the name of the applicant and the premises to be served.

6-3-5 LIABILITY FOR PAYMENT. Bills for sewer service shall be sent directly to the owner of the property receiving service. In the case of rental property the bill will be sent to the owner of the property, not the tenant. Tenants of rental units may request a copy of the sewer bill. It shall be the responsibility of the property owner to pay the bill. All notices related to non-payment of a bill shall be sent to the property owner. If a bill is not paid by the due date, the property shall be subject to the provisions of Section 6-321-7 of this Chapter.

(Ord. 2-98, Passed December 7, 1998)

(Amended during 2009 codification)

6-3-6 CITY CLERK TO RENDER BILLS. It is hereby made the duty of the Clerk to render bills for sewer service and all other charges in connection therewith and to collect all monies due therefrom.

6-3-7 LIEN FOR NON-PAYMENT. All sewer charges levied pursuant to the ordinance constitute a lien upon the premises charged therewith and if the same are not paid within sixty (60) days after due date, the charges shall be certified to the Treasurer of Dubuque County who shall place the same on the tax duplicate and the charges or penalties allowed by law shall be collectible as other municipal taxes.

6-3-8 SANITARY FUND ACCOUNT. All revenues and monies derived from the operation of the sewer system shall be paid to and held by the Clerk separate and apart from all other funds of the City and all of said sums, and all other funds and monies incident to the operation of said system, as may be delivered to the Clerk, shall be deposited in a separate fund designated the "Sanitary Fund Account" and said Clerk shall administer said fund in every respect in a manner provided by the Code of Iowa and all other laws pertaining thereto.

6-3-9 SYSTEM OF ACCOUNTS. The Clerk shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system and at regular annual intervals the City Council shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewer system.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 4 UTILITIES - WATER SYSTEM**

6-4-1	Water Funds	6-4-11	Abandoned Wells
6-4-2	Hydrants	6-4-12	Designation of Wells
6-4-3	Liability	6-4-13	Use of Existing Facilities
6-4-4	Interference Prohibited	6-4-14	Meters
6-4-5	Equipment	6-4-15	Water Rent, When Due, Delinquent Bills
6-4-6	Digging Up Pipes	6-4-16	Residential Rental Property
6-4-7	Reports of Violations	6-4-17	Discontinuing Service, Fees
6-4-8	Rules and Regulations	6-4-18	Meter Testing
6-4-9	Shallow Public Wells	6-4-19	Meter Reader
6-4-10	Deep Public Wells		

6-4-1 WATER FUNDS. There shall be an account kept by the Clerk known as the Water Fund. All money received from the sale of waterworks bonds, from the collection of water rents, from taxation for waterworks purposes, from the sale of any property or material connected with the waterworks, from any appropriation made by the council for the purpose of construction or extension of waterworks or from any source whatever connected with the management and operation of the waterworks system, shall be placed in the Water Fund, and all salaries and disbursements connected with the management and operation of the waterworks system, shall be paid out of this fund.

All revenues at any time accruing to the Water Fund, over and above that which is necessary for the construction, extension and operation of the waterworks, shall, on resolution passed by a majority of the members of the Council, be paid over into the Sinking Fund.

6-4-2 HYDRANTS. All hydrants erected for the purpose of extinguishing fires are hereby declared to be public hydrants, and no person, except members of the Fire Department, or waterworks or persons especially authorized by the Inspector, and then only in the exercise of authority delegated by the Inspector, shall open any of the hydrants or attempt to draw water from the same, or at any time attempt to uncover or remove any protection from or in any manner interfere with any of the hydrants.

6-4-3 LIABILITY. The City does not guarantee a constant supply of water to any consumer and shall not be liable for damages for any failure to supply the same, nor shall it be liable for any claim or damage by reason of breaking of any service pipe, stop-cock, or other equipment, or if for any reason the supply of water shall be shut off to make repairs, connections or extension or for any purpose that may be found necessary. The right is reserved to cut off the supply of water at any time.

6-4-4 INTERFERENCE PROHIBITED. It shall be unlawful to break, injure, mar or deface, interfere with or disturb any building, machinery, apparatus, fixtures, attachments, or appurtenances of the Waterworks Department, or any hydrant, stop-cock box, meter, water supply or service pipe or any part thereof, or deposit anything in any stop-cock box, commit any act



tending to obstruct or impair the intended use of any of the above mentioned property, without permission of the Council, or excepting cases herein or otherwise provided by the Inspector.

6-4-5 EQUIPMENT. It shall be unlawful for any person authorized to open hydrants to delegate their authority to another, or let or suffer another person to take wrenches or tools furnished him/her, or suffer the same to be taken from any hose house except for the purposes strictly connected with the Fire Department.

6-4-6 DIGGING UP PIPES. It shall be unlawful to make any excavation in any street, or highway within six feet (6') of any laid water pipe, while the ground is frozen, or dig up or uncover so as to expose to frost any of the water pipes or sewers of the City except by special permission of the Inspector.

6-4-7 REPORTS OF VIOLATIONS. It shall be the duty of any police officer employed by the City to report to the Inspector all cases of leakage, waste or unnecessary profusion in the use of water, and all violations of this Chapter that come to the officer's notice shall be reported to the Mayor.

6-4-8 RULES AND REGULATIONS. The rules, regulations and water rates hereafter set out in this Chapter, shall be considered a part of the contract with every person which is supplied with water through the waterworks system, and every person be taking water shall be considered to express their assent to be bound thereby. When any of the same are violated, or such others as the council may adopt, the water shall be cut off from the building or place of such violation subject to provisions of Section 6-4-16, and shall not be turned on except by order of the Inspector or his/her duly authorized agent, and only then after the payment of the expense of shutting off the water and turning it on again, and such other terms as the Inspector shall determine, and in case of such violation the Inspector shall have the right to declare forfeited any payment made for water by the person committing such violation.

The following rules and regulations for the government of water users, licensed plumbers and others, are hereby adopted and established:

1. Application for Service. Every person desiring a supply of water must make application therefore to the Clerk on such form as may be prescribed by the council and provided for that purpose. The application must state fully and truly all the uses to which the water is to be applied, and no different or additional use will be allowed, except by written permission issued by the Inspector upon proper application being made therefore. Not more than one house or premises shall be supplied from one tap, unless provision is made so that each house or premises can be shut off independently of every other house or premises.

The person apply for connection to the waterworks system shall install and maintain at their expense that portion of the service from the water main to their premises. No statement contained in this Ordinance shall be construed to require the City to extend an existing water main to a location abutting any house, building, or property used for human occupancy, employment, or other purposes situated within the City. Any person desiring a water main extension shall apply for the same in writing to the City Clerk who will make an investigation and submit the same with a recommendation to the City Council for their decision.

2. Credit Unlawful; Rental Property. All bills must be paid promptly when due, and the City will hold the owner of the property responsible for all water rents and other bills and will look only to them for the same. A tenant of any premises may pay the water bills but the owner of the premises will be looked to for payment of delinquent bills, notwithstanding the provisions of Section 6-4-16. All officials of the Waterworks Department are positively prohibited from allowing credit to anyone.

3. Turning Water On. Water will not be turned on in any house or private service except by order of the Inspector. This rule shall not be construed to prohibit plumbers from turning water into any pipes to test the same for that purpose only.

4. Service to One Family Only. No consumer shall supply water to other families nor suffer them to take water off their premises, or after water is introduced into any building, or upon their premises, shall any person make or employ any plumber or other person, to make any taps or connections with the pipes upon the premises for alterations, extensions or attachments without filing a regular application therefore and obtaining a permit from the Clerk.

5. Water Wastage. All persons using water shall keep the hydrants, tap, hose, water closet, urinals, bath or other fixtures allotted to their use, closed except when obtaining water for use, and shall be responsible for any damage or injury that may result to others from the improper use of water.

6. Meters. All meters shall be so placed as to be easy of access and convenient to read and inspect. They shall also be protected from frost in such manner as to prevent freezing. The Inspector or some employee of the Waterworks Department acting under the Inspector shall place or superintend the setting of all meters and shall have power to order extension dials placed wherever they may be necessary to carry out the provisions of this rule.

All meters shall be tested when deemed necessary by the Inspector and all defective meters shall be repaired by or under the supervision of the Inspector or a licensed plumber approved by the Inspector.

Should a meter get out of order or repair, or fail to register properly, the consumer will be charged with three average monthly consumption as shown by the meter, when in order, for the six (6) months previous, or fraction thereof if the same has not been used that long.

In no case shall licensed plumbers or others remove a meter from its setting or interfere with its reading for any cause, without first obtaining a permit from the Inspector.

7. Water Tanks. All house boilers shall be constructed with a vacuum valve at the top of the inlet pipe, and be sufficiently strong to bear the pressure of the atmosphere when under a vacuum. The stop cocks and other appurtenances must be sufficiently strong to bear the pressure and ram of the water in the main.

8. Equipment to be Maintained by Owner. All persons taking water shall keep their own service pipe stop cocks, and apparatus in good repair and protected from frost at their own risk and expense, and shall prevent all unnecessary waste of water, and it is expressly stipulated that no claim shall be made against the City by reason of the breaking of any service pipe or service cock,

or if for any cause the supply of water should fail or from damage arising from shutting off the water to repair mains, making connections or extensions, or for any other purpose that may be deemed necessary, and the right is hereby reserved to cut off the supply of water at any time, any permit granted or regulation to the contrary notwithstanding.

9. Right of Entry. Every person taking water supplied through the waterworks system shall permit the Inspector and employee of the Department, at all reasonable hours of the day to enter their premises or buildings to examine the pipes and fixtures and the manner in which the water is used or to read meters, and they must frankly and without concealment answer the questions put to them relative to the use of water on such premises.

10. Size of Hose. Hose larger than three-fourths inch (3/4") will not be permitted where no meter is set, without payment of an additional charge.

11. Sprinkling Regulations. The use of hose for sprinkling yards, gardens and streets, or for washing windows and sidewalks is prohibited in case of fire or when there is an alarm of fire, or when the condition of the water supply requires it.

12. Service Pipe. That portion of the water service pipe from the water main to the stop box up to two and one-half inches (2-1/2") in size inclusive, must be laid of extra strong type K copper pipe with a minimum diameter of 3/4 inch (3/4"); for over two and one-half inches (2 1/2") it must be laid of standard weight Class C cast iron pipe. That portion of the water service pipe from the stop box to the water meter may be laid of plastic pipe (polyethylene and polybutylene prohibited) but shall be of such thickness as Schedule 40, PVC Type 1, Grade 1, Cell 12454-B conforming to ASTM D-1784. Brass, bronze and copper pipe and fittings used shall be of such strength and thickness as to safely withstand a pressure of two hundred (200) pounds per square inch.

Copper pipe used in service connections shall be cold drawn seamless tubing with a proper bending temper so that a full section shall withstand being bent cold through one hundred eighty degrees (180 degrees) without cracking on the outside of the bent portion around a pin the diameter of which is one and one-half (1-1/2) times the inside diameter of the copper pipe. The purity of the copper used shall be at least ninety-nine and nine-tenths per cent (99.9%), and shall have a tensile strength of thirty thousand (30,000) pounds per square inch with a minimum elongation one inch (1") in four inches (4"). The minimum weights and thickness of copper service pipe per foot length shall be as follows: 3/4 inch, weight 0.64 lbs., thickness 0.065 inches; 1 inch, weight 0.838 lbs. thickness 0.065 inches; 1-1/4 inches, weight 1.036 lbs., thickness 0.065 inches; 1-1/2 inches, weight 1.360 lbs., thickness 0.072 inches; two inches, weight 2.062 lbs., thickness 0.083 inches; 2-1/2 inches, weight 2.567 lbs., thickness 0.083 inches.

When a service pipe is to supply a building which has an area wall between the water main and the building, the service pipe must go under the area wall. Service pipe must also be laid under cellar walls. All joints in the service pipe shall be of the kind termed "Flange Union."

No water service pipe or tap for any building shall be less than three-fourths inch (3/4") in diameter, and pipes supplying sill cocks or hydrants outside of buildings shall not be less than five-eighths (5/8") in nominal diameter.

Plumbers installing water service pipes shall close the curb shut off and leave it closed upon

completion of their work.

13. Mains. Mains must be tapped on the top and not in any case within ten inches (10") of the hub and all tapping of mains shall be done by or in the presence of the Inspector or other properly authorized person.

14. Freezing. All service pipes must be laid as much underground as the main pipe in the street, and in all cases to be deep enough to prevent rupture by freezing.

15. Stop Cocks. Stop cocks of the inverted key type shall be placed in every service pipe at the outer sidewalk line and protected by a cast iron stop cock box with suitable lock of a pattern approved by the Inspector, reaching from the stop cock to the surface of the ground, of a suitable size to admit of a stop key for turning on and off the stop cocks and with heavy metal cover, having the letter "W" marked thereon, visible, and even with the pavement or ground. This stop cock shall have a rod securely fastened to it, and extending up inside the stop box to a distance of approximately six inches (6") from the top, said rod to be squared and tapered on the top and of suitable size to fit the sockets of standard cut-off wrenches such as are used in turning the water on and off at the curb. Where one service pipe is intended to supply two or more consumers, there shall be separate service cocks for each.

There shall be a stop and waste cock of a pattern and weight approved by the Inspector, attached to every service pipe, at a point where it enters the building, inside the same easily accessible, and so situated that the water can be conveniently shut off and drained from the pipes.

16. Service Pipes to be Flushed. Service pipes must be thoroughly flushed before a meter is attached. No meter shall be placed on a straight run but shall be placed at least six inches (6") above the service pipe on a loop.

17. Excavations. In making excavations in streets or highways from the laying of service pipes or making repairs, the planks or paving stones, or earth shall be deposited in such manner as to occasion the least inconvenience to the public and provide for the passage of water along the gutter. All such excavations shall have proper barricades erected and with warning lights placed thereto from dusk in the evening to daylight the following morning.

After the service pipes are laid, in refilling the excavation, the excavation must be backfilled with sand and the earth must be held in layers and each layer thoroughly tamped and packed to prevent settlement. When the excavation is in a right of way but not under a street or highway it is not necessary to backfill with sand prior to refilling with earth. This work, together with the replacement of the sidewalk, ballast and paving, must be done so as to make the street at least as good as it was before the excavation was made and to the satisfaction of the Inspector.

No hydrant or fountain, except public drinking fountains, shall be placed within the limits of any street unless the hydrant or drinking fountain are secured and protected against use.

6-4-9 SHALLOW PUBLIC WELLS. No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth, from a shallow public well within the City of New Vienna, Iowa:

1. Well house floor drains to ground surface - 5 feet.
2. Water treatment plant wastes to ground surface - 50 feet.
3. Sanitary and industrial discharges to ground surface - 200 feet.
4. Floor Drains.
  - a. Floor drains from well house to surface - none within 5 feet.
    - (1) 5-10 feet water main materials enclosed in concrete permitted;
    - (2) 10-25 feet must be water main material;
    - (3) 25-75 feet must be watertight sewer pipe.
  - b. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains:
    - (1) None permitted within 25 feet;
    - (2) If closer than 75 feet, must be water main material;
    - (3) If between 75 and 200 feet, must be watertight sewer pipe.
  - c. Sewer force mains:
    - (1) None permitted within 75 feet;
    - (2) If within 200 feet, must be water main materials.
5. Land application of solid waste - 200 feet.
6. Irrigation of wastewater - 200 feet.
7. Concrete vaults and septic tanks - 200 feet.
8. Mechanical wastewater treatment plants - 200 feet.
9. Cesspools and earth pit privies - 200 feet.
10. Soil absorption fields - 200 feet.
11. Lagoons - 200 feet.
12. Chemical application to ground surface - 200 feet; above ground chemical or mineral storage - 200 feet; on or underground chemical or mineral storage - 200 feet.
13. Animal pasturage - 50 feet.

14. Animal enclosure - 200 feet.
15. Animal wastes:
  - a. Land application of solids - 200 feet.
  - b. Land application of liquid or slurry - 200 feet.
  - c. Storage tank - 200 feet.
  - d. Solids stockpile - 200 feet.
  - e. Storage basin or lagoon - 200 feet.
16. Earthen silage storage trench or pit - 200 feet.
17. Basements, pits, sumps - 10 feet.
18. Flowing streams or other surface water bodies - 50 feet.
19. Cisterns - 100 feet.
20. Cemeteries - 200 feet.
21. Private wells - 200 feet.
22. Solid waste disposal sites - 200 feet.

6-4-10 DEEP PUBLIC WELLS. No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth, from a deep public well within the City of New vienna, Iowa:

1. Well house floor drains to ground surface - 5 feet.
2. Water treatment plant wastes to ground surface - 50 feet.
3. Sanitary and industrial discharges to ground surface - 200 feet.
4. Floor drains:
  - a. Floor drains from well house to surface - none within 5 feet.
    - (1) 5-10 feet water main materials enclosed in concrete permitted.
    - (2) 10-25 feet must be water main material.
    - (3) 25-75 feet must be watertight sewer pipe.

- b. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains:
  - (1) None permitted within 25 feet.
  - (2) If closer than 75 feet, must be water main material;
  - (3) If between 75 and 200 feet, must be watertight sewer pipe.
- c. Sewer force mains:
  - (1) None permitted within 75 feet.
  - (2) If within 200 feet, must be water main materials.
- 5. Land application of solid waste - 100 feet.
- 6. Irrigation of wastewater - 100 feet.
- 7. Concrete vaults and septic tanks - 100 feet.
- 8. Mechanical wastewater treatment plants - 200 feet.
- 9. Cesspools and earth pit privies - 200 feet.
- 10. Soil absorption fields - 200 feet.
- 11. Lagoons - 200 feet.
- 12. Chemical application to ground surface - 100 feet. Above ground chemical or mineral storage - 100 feet. On or underground chemical or mineral storage - 200 feet.
- 13. Animal pasturage - 50 feet.
- 14. Animal enclosure - 100 feet.
- 15. Animal wastes:
  - a. Land application of solids - 100 feet.
  - b. Land application of liquid or slurry - 100 feet.
  - c. Storage tank - 100 feet.
  - d. Solids stockpile - 200 feet.
  - e. Storage basin or lagoon - 200 feet.
- 16. Earthen silage storage trench or pit - 100 feet.

17. Basements, pits, sumps - 10 feet.
18. Flowing streams or other surface water bodies - 50 feet.
19. Cisterns - 50 feet.
20. Cemeteries - 200 feet.
21. Private wells - 200 feet.
22. Solid waste disposal sites - 200 feet.

6-4-11 ABANDONED WELLS. Proscriptions as set forth in 6-4-9 and 6-4-10 shall apply to all public water wells existing within the City of New Vienna, except public water wells formerly abandoned for use by resolution of the City Council.

6-4-12 DESIGNATION OF WELLS. The New Vienna City Council shall designate each water well within the City of New Vienna as being a "shallow well" or "deep well" for the purposes of this ordinance.

6-4-13 USE OF EXISTING FACILITIES. The use of structures or facilities listed in 6-4-9 or 6-4-10 as of March 2, 1981, may be continued even though such use may not conform with the regulations of this ordinance. However, such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to that date.

6-4-14 METERS. Meters shall be furnished by the City and be installed by an employee of the Waterworks Department a charge of \$250.00 or the cost of a meter to the city, plus labor from customer. Such installation shall be in the basement of the house when practicable, otherwise to be placed in a frost-proof meter box not less than twenty-four (24") in diameter, or properly bricked up pit of not less than twenty-four inches by thirty inches (24" x 30"), all duly protected from frost and to be kept in such condition that the meter therein can, at any time be readily inspected. The property owner shall be liable for all damages to the meter by freezing.

All water shall be measured by meter. The joint use of a water meter by two households will not be permitted. There shall be a separate water meter for each apartment or household living in the same dwelling or apartment house, and a separate water meter for each business establishment and professional office, excepting where the consumer has his or her residence in the same building as his/her place of business or office.

Meters shall be read monthly between the twenty-second (22) and the twenty-seventh (27). When meters are installed for temporary purposes or building use meters shall be read and water rates due and payable when the use of the meter terminates.

(Amended during 2009 codification)  
(Ord. 1-12, Passed September 6, 2012)

6-4-15 WATER RENT, WHEN DUE, DELINQUENT BILLS. Water rents shall become delinquent on and after the 15<sup>th</sup> of the month when due and if not paid within thirty (30) days after



they become due, the water service shall be severed and to be disconnected, the delinquent party must pay all accounts past due and a cut-in charge.

Water rents and all bills due the City from any connected water service shall be paid at the office of the Clerk and a notice of the amount due for water rents or other bills connected with the water service shall be sent through the mail when delinquent, to the last known post office address of such consumer.

(Ord. 4-2, passed November 4, 2002)

(Ord. 2-12, passed September 6, 2012)

6-4-16 RESIDENTIAL RENTAL PROPERTY. Bills for water service shall be sent directly to the owner of the rental property. The tenant may request a copy of the bill. It shall be the responsibility of the rental property owner to pay the bill. All notices related to non-payment of a bill shall be sent to the property owner. If a bill is not paid by the due date, the property shall be subject to the provisions of Section 6-4-17 of this Chapter.

(Ord. 2-98, Passed December 7, 1998)

(Amended during 2009 codification)

6-4-17 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty (30) days from the end of any given period, the service to such owner or person so supplied with the water service shall be discontinued after the following procedures have been complied with:

a. The City Clerk shall send a disconnect notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut off date." Should the City Clerk receive no response within one week after the letter has been sent by ordinary mail, it will then be delivered by the New Vienna Police.

(Ord. 4-2, passed November 4, 2002)

b. When a hearing is requested by a customer, the City Clerk shall conduct a hearing within two (2) weeks following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the City Clerk may be appealed to the City Council.

(Ord. 4-2, passed November 4, 2002)

2. If water service is discontinued for non-payment of fees and charges, or for the violation of any Ordinance, a fee of \$50.00 shall be paid to the City Clerk in addition to the rates or charges then due before such service is restored. If any damage occurs due to disconnecting water service, the owner is responsible for payment of damages in full, before service is restored.

(Code of Iowa, Sec. 384.84(2))

(Ord. 4-2, passed November 4, 2002)

(Amended during 2009 codification)

3. If any such water service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes. A lien shall not be certified to the County Treasurer for collection unless prior written notice by ordinary mail of the intent to certify a lien is given to

the account holder of the delinquent account.

(Code of Iowa, Sec. 384.84(3))  
(Ord. 4-2, passed November 4, 2002)

6-4-18 METER TESTING. Any property owner may require a meter to be tested by paying into the office of the City Clerk the sum of fifty dollars (\$50.00) and should the meter register two percent (2%) or more fast, such property owner shall be entitled to an adjustment on the basis of the over registration of the meter and have their dollar deposited for testing the meter refunded, and should the meter register more than two percent (2%) slow, the consumer shall be charged for the water consumed on the basis of the under registrant of the meter at the regular meter rate in addition to the meter registration.

All meters found to register more than two percent (2%) fast or more than two percent (2%) slow shall be repaired or replaced by an employee of the Waterworks Department within five (5) days after such testing.

(Ord. 5-12, Passed September 6, 2012)

6-4-19 SERVICE FEES; METER READER. Every property and/or account receiving water service shall pay a State Revolving Fund (SRF) fee of \$8.00 per month to help cover the water revenue debt. Additionally, all water meters will be read and a record of such readings furnished the consumer and a duplicate of such reading made in the office of the City Clerk.

That the Waterworks Department will from April 6, 2021, charge and collect the following prices and rates monthly for separate services. which rates include meter rates and all services rendered:

First 2,000 gallons	\$22.00 minimum
Over 2,000 gallons	\$6.00 per 1,000 gallons

Rates for sales of water outside the City shall be \$5.00 per 1,000 gallons with a minimum charge of \$25.00 a load.

For POOLS and OUTSIDE OF CITY LIMITS WATER USEAGE.

One time service charge of \$25.00, for opening and closing of hydrant, plus a charge of basic water rate.

(Ord. 2-95, Passed December 4, 1995)  
(Ord. 2-05, Passed December 5, 2005)  
(Amended during 2009 codification)  
(Amended February 2011)  
(Ord. 3-12, Passed September 6, 2012)  
(Ord. 1-18, Passed March 6, 2018)  
(Ord. 01-2021, Passed April 6, 2021)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 5 UTILITIES - REFUSE COLLECTION**

6-5-1	Definitions	6-5-9	Deposit of Material on Streets
6-5-2	Collections	6-5-10	Burning of Refuse
6-5-3	Containers	6-5-11	Collection of Charges
6-5-4	Drainage of Refuse	6-5-12	Schedule of Fees
6-5-5	Accumulation of Refuse	6-5-13	Fees Due
6-5-6	Accumulation of Refuse in Containers	6-5-14	Discontinuing Service; Fees
6-5-7	Hauling Refuse	6-5-15	Reserved
6-5-8	Hazardous Refuse	6-5-16	Yard Waste
		6-5-17	Anti-Scavenging

6-5-1 DEFINITIONS. For the purpose of this Ordinance, the following definitions shall apply:

1. "Agency" shall mean the Dubuque Metropolitan Area Solid Waste Agency.
2. "Garbage" shall mean any and all refuse from food incidental to its preparation or use for human consumption.
3. "Refuse" shall mean all solid waste from residential, commercial or industrial premises. It shall include semi-liquid or wet wastes with insufficient moisture and other liquid contents to be free flowing. It shall not include any construction materials except minor amounts incidental to other wastes.
4. "Yard Waste" means organic debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, etc.) which is produced as part of yard and garden development and maintenance.

(Ord. 5-90, Passed July 2, 1990)

6-5-2 COLLECTIONS. Collections shall be made at such time and in such areas of the City as shall be set out in schedules agreed upon by the Mayor and the collection operator.

The Mayor is empowered to change and amend such schedules from time to time as the Mayor, in his or her discretion, shall deem necessary.

Collections will be made either from streets or alleys, where existing, at the discretion of the operator.

Collections will be made on a once a week basis on the regular scheduled day unless conditions do not permit the operation of the collection vehicle. If that is the case, the collection will be made as soon as it is possible to operate in a safe manner.

If the scheduled collection date falls on a holiday such as Christmas, New Years, Thanksgiving, Memorial Day, or other generally recognized national holidays, collections will be made on the following Saturday.

(Ord. 1-90, Passed January 8, 1990)

(Amended during 2009 codification)

6-5-3 CONTAINERS. The owner or occupant of each house shall provide suitable containers in which to store such refuse in a safe manner between and for collections. The containers shall meet the following requirements:

1. A thirty-three (33) gallon can or thirty-three (33) gallon bag (or smaller) must be used for garbage, not exceeding forty (40) pounds when full.

2. Each household unit is allowed one thirty-three (33) gallon can or thirty-three (33) gallon bag of garbage per week for the basic garbage pick-up.

3. Each additional thirty-three (33) gallon can or thirty-three (33) gallon bag must have a garbage tag on it. (\$1.00 per tag or going rate per distributor).

(Amended during 2009 codification)

4. Garbage bag tags can be purchased at City Hall or J&D Mart.

5. Boards of any type will be bundled in lengths of six feet (6') or less so that one person can handle them.

6. No dead animals of any kind will be collected.

(Ord. 2-92, Passed February 3, 1992)

(Ord. 2-96, Passed November 4, 1996)

6-5-4 DRAINAGE OF REFUSE. Within the corporate limits of the City of New Vienna, all garbage or refuse, consisting of waste animal and vegetable matter, which may attract flies, dogs, or rodents, shall be drained of all excess liquid, wrapped in paper or disposable containers and placed or stored, until collected, in covered suitable containers as described in 6-5-3.

6-5-5 ACCUMULATION OF REFUSE. It shall be unlawful for any person to permit to accumulate on any premises improved or vacant, or on any public place in the City of New Vienna, such quantities of garbage or refuse, either in containers or not, that shall, in the opinion of the Health Officer, constitute a health or sanitation hazard.

6-5-6 ACCUMULATION OF REFUSE IN CONTAINERS. It shall be unlawful for any person to permit to accumulate quantities of refuse, papers, trash, ashes, or other waste materials, within or close to any building in the City of New Vienna, unless the same is stored in containers in such a manner as not to create a health or fire hazard.

6-5-7 HAULING REFUSE. No person, firm or corporation shall haul or cause to be hauled

any garbage, refuse or other waste material of any kind, to any dumping place or site or area, within or without the corporate limits of the City of new Vienna, unless such place, site or area is first approved by the City of New Vienna; in addition to complying with all applicable health and zoning ordinances of the City of New Vienna.

6-5-8 HAZARDOUS REFUSE. No person, firm or corporation shall deposit in a garbage, or refuse container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous materials shall be transported by the owner, responsible person or his or her agent, to a place of safe deposit or disposal as prescribed by the Agency Director or his or her authorized representative. Hazardous materials shall include: explosive materials; rags or other wastes soaked in volatile and inflammable materials; drugs, poisons; radio-active materials, highly combustible materials; soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease, and other materials which may present a special hazard to collection or disposal personnel or equipment or the public.

6-5-9 DEPOSIT OF MATERIAL ON STREETS. No person, firm, or corporation shall throw, rake, deposit, dump, drop or spill litter, waste material or foreign material upon the streets, sidewalks, or other public rights-of-way within the City of New Vienna; however, the Mayor may at his/her discretion, proclaim a period when leaves may be placed in streets right-of-way for collection.

6-5-10 BURNING OF REFUSE. It shall be unlawful to burn any garbage, refuse or rubbish within the city limits.

(Amended during 2009 codification)

6-5-11 COLLECTION OF CHARGES.

1. All charges and fees are payable at the office of the City Clerk, in person or by mail. The City Clerk shall issue all bills quarterly. Collection charges are due on or before the 25<sup>th</sup> day of the month following the period of service.

(Ord. 4-2, passed November 4, 2002)

2. Bills for refuse collection service shall be sent directly to the owner of the property receiving service. In the case of rental property the bill will be sent to the owner of the property, not the tenant. The tenant may request a copy of the bill. It shall be the responsibility of the property owner to pay the bill. All notices related to non-payment of a bill shall be sent to the property owner. If a bill is not paid by the due date, the property shall be subject to the provisions of Section 6-5-14 of this Chapter.

(Ord. 2-98, Passed December 7, 1998)

(Amended during 2009 codification)

3. Any failure to pay such charges and/or fees by the due date shall be a delinquency, and the amount of the delinquency and any penalty fees under Section 6-5-13 shall constitute a lien upon the real property owned by any person liable for same. In the case of apartment owners, the City Clerk shall give the apartment owner fifteen (15) days written notice to pay the charges

and/or fees after the apartment occupant designated by such owner is delinquent, before a lien may be attached. The fact of any delinquency and lien may be certified by the City Clerk to the County Treasurer for Dubuque County for collection in the same manner as property taxes.

(Ord. 2-92, Passed February 3, 1992)

6-5-12 SCHEDULE OF FEES. There shall be collected by the City for its services in collecting garbage and rubbish, the following mandatory fees:

1. Residence Rate. From each resident with alley or curb pickup, the rate per month shall be fifty cents (\$0.50) more than the City's contracted monthly service charge for one container each week, with recyclable materials picked up every week. In the event that alley or curb pickup for any residence is not feasible, the City is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon. Tags for collection of additional refuse beyond one container a week will be available at the City Clerk's office or any designated commercial establishment within the City at a reasonable cost.

(Amended during 2021 codification)

a. The amounts for garbage and recycle pickup are \$ 0.50 above the contracted price are listed below for each pickup:

Year 1 – 13.19

Year 2 – \$13.32

Year 3 – \$ 13.32

Year 4 – \$13.45

Year 5 – \$13.45

This will increase each year April 1st.

(Amended during 2021 codification)

2. Commercial Rate. A commercial establishment may haul or transport its own garbage and rubbish or contract with a collector to do so, subject to all applicable provisions of this ordinance.

(Ord. 3-93, Passed March 1, 1993)

(Ord. 2-96, Passed November 4, 1996)

(Ord. 1-00, Passed June 5, 2000)

(Ord. 1-03, Passed May 5, 2003)

(Ord. 2-06, Passed November 6, 2006)

(Ord. 1-08, Passed March 3, 2008)

(Ord. 2-11, Passed)

(Ord. 03-2018, Passed March 6, 2018)

6-5-13 FEES DUE. All refuse collection charges shall be paid to the City on a quarterly billing.

(Amended during 2009 codification)

6-5-14 DISCONTINUING SERVICE; FEES. If any account is not paid within thirty (30) days from the end of any given period, the service to such owner or person so supplied with the refuse service shall be discontinued after the following procedures have been complied with:

1. The Clerk shall send a notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled discontinuance date."

2. When a hearing is requested by a customer, the City Clerk shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the City Clerk may be appealed to the City Council.

(Code of Iowa, Sec. 384.84(2))

6-5-15 RESERVED.

6-5-16 YARD WASTE.

1. Definition. "Yard waste" means organic debris (e.g., grass clippings, leaves, tree limbs and branches (4 inches in diameter max), bark, flowers) which is produced as part of yard and garden development and maintenance.

2. Community compost for yard waste. Residents may take their yard waste to the community compost.

(Ord. 2-92, Passed February 3, 1992)

(Amended during 2021 codification)

6-5-17 ANTI-SCAVENGING. It shall be a violation of this Code for any person to sort through, scavenge or remove any garbage, waste, refuse, rubbish or recycling material that has been placed in a designated garbage or recycling container. Unauthorized collection, removal or scavenging of material placed in a garbage or recycling container shall be a violation of this Code and punishable as set forth in the Municipal Code.

(ECIA Model Code Amended in 2017)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5A UTILITIES - RECYCLING

6-5A-1 Purpose	6-5A-4 Separation and Placement
6-5A-2 Recycling Required	6-5A-5 Required Pick Up
6-5A-3 Containers	6-5A-6 Unauthorized Collection

6-5A-1 PURPOSE. The purpose of this Ordinance is to require the recycling of certain solid wastes.

6-5A-2 RECYCLING REQUIRED. The occupants of each property served by refuse collection provided by the City shall separate the following recyclable materials from other garbage and refuse, and shall dispose of the recyclable materials as follows:

1. Metal. All metals accepted. Remove all food residue and rinse. Clean, then place lid back inside can and then pinch end closed to hold lid inside. No metal items longer than three feet. Acceptable: Clean aluminum foil, pie tins, beverage cans, old pots and pans, tin and aluminum cans, clean paint cans with lids removed, empty non-hazardous aerosol can. Not acceptable: batteries, oil filters, larger appliances, furniture.

2. Paper. Must be clean and dry. All paper can be mixed and should be placed in a paper bag or loose in recycling container. (No plastic bags.) Paper should be covered or held back on rainy days. Paper will not be picked up if wet. Acceptable: Newspaper, magazines, junk mail, inserts, envelopes, paper bags, labels from cans, paperback books, phone books, TV Guides, white ledger, computer paper. Not acceptable: Waxed paper, carbons, photos, tissues, napkins, paper towels, plates, pet food or fertilizer bags, paper cups.

3. Plastics. Rinse three times and air dry. Plastics not marked with a recycling number of 1, 2, 3, 4, 5, and 7 should be discarded. Plastic caps and lids should be removed. Acceptable: Milk jugs, detergent bottles, beverage and yogurt containers, ketchup bottles, butter tubs, lid and caps. Not acceptable: Unmarked plastics, film plastics, plastic bags, auto lubricant container, antifreeze containers, soiled or uncleaned containers.

4. Cardboard. Corrugated and chipboard. Must be clean. Clean all contents from within boxes. Flatten boxes. Acceptable: Cereal and cracker boxes, toilet paper cores, tissue boxes. Not acceptable: Oil stained cardboard, wax-coated cardboard such as milk or juice cartons, butter containers.

5. Container Glass. A separate container, such as a paper bag, cardboard box or a plastic container needs to be used for glass. Glass items can be mixed together. Do not break glass containers. Acceptable: Clear, brown and green glass jars and bottles. Rinse. Not acceptable: Mirrors, ceramics, ovenware, clay flower pots, crystal, window glass, plate glass, light bulbs.



6-5A-3 CONTAINERS. Each property served shall purchase sufficient containers approved by the City to be used for all recyclable materials as required under this Ordinance which are not tied or otherwise bundled, if allowed.

6-5A-4 SEPARATION AND PLACEMENT. All recyclable materials as required under this Ordinance shall be separated from other garbage and refuse and shall be placed at the curb, alley or approved location for solid waste collection on the days scheduled for collection of recyclable materials.

6-5A-5 REQUIRED PICK UP. The City, any employee, agent or contractor performing solid waste collection service shall not be required to pick up or remove recyclable materials which are not tied, secured, or packaged and placed at the curb, alley, or approved location for solid waste collection in accordance with this Ordinance.

6-5A-6 UNAUTHORIZED COLLECTION. At the time recyclable materials are placed at the curb, alley or approved location for pick up pursuant to this Ordinance, such materials become the property of the City or its duly licensed solid waste collector and it shall be a violation of this Ordinance for any person not authorized and licensed by the City to collect, pick up, take or remove any such recyclable materials.

(Amended during 2021 codification)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 6 STREET CUTS AND EXCAVATIONS**

6-6-1	Excavation Permit Required	6-6-4	Safety Measures
6-6-2	Application for Permit	6-6-5	Backfilling and Restoration
6-6-3	Permit Fees	6-6-6	Rules and Regulations

6-6-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-6-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

NOTE: Please complete the form at the end of this chapter.

6-6-3 PERMIT FEES. There shall be no permit fee for the cost of each inspection.

6-6-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

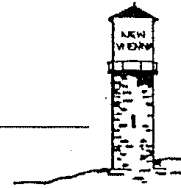
6-6-5 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the city maintenance person is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-6-6 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

# City of New Vienna, Iowa

7271 Columbus Street • PO Box 19, New Vienna, Iowa 52065-0019

(563) 921-2295



## EXCAVATION PERMIT

Applicant's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Location of Excavation: \_\_\_\_\_

Company or Person Doing the Work: \_\_\_\_\_

Address of Company or Person: \_\_\_\_\_

Is Public Liability Insurance in force? \_\_\_\_\_ Yes \_\_\_\_\_ No

Has Iowa One Call been notified: \_\_\_\_\_ Yes \_\_\_\_\_ No

Any person, firm or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset or sunrise each night, and take such precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material,, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgement of the Chief of Police the public safety requires it. Compliance with city ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with the city specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the city reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If backfilling or pavement or surfacing restoration is not in accordance with the city specifications, the superintendent or public utilities is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

The undersigned is hereby given permission to dig a trench for water or sewer, in the City of New Vienna, Iowa at: \_\_\_\_\_ provided that the applicant agrees to adhere to **Title VI, Chapter 6, Sections 6-6-4, 6-6-5**, copies of which may be seen upon request at the offices of the City Clerk.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
City Clerk

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 7 SUBDIVISION REGULATIONS**

**GENERAL PROVISIONS**

- 6-7-1 Short Title
- 6-7-2 Purpose
- 6-7-3 Application
- 6-7-4 Recording of Plat

**DEFINITIONS**

- 6-7-5 Terms Defined

**IMPROVEMENTS**

- 6-7-6 Improvements Required
- 6-7-7 Inspection
- 6-7-8 Minimum Improvements
- 6-7-9 Completion of Improvements
- 6-7-10 Performance Bond

**MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS**

- 6-7-11 Minimum Standards

**GENERAL PROVISIONS**

6-7-1 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of New Vienna, Iowa, Subdivision Control Ordinance."

6-7-2 **PURPOSE.** The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of New Vienna, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

**PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS**

- 6-7-12 Procedures and Submission Requirements for Plats
- 6-7-13 Pre-Application Conference
- 6-7-14 Sketch Plan Required
- 6-7-15 Presentation to City Council
- 6-7-16 Subdivision Classified
- 6-7-17 Plats Required
- 6-7-18 Requirements of Preliminary Plat
- 6-7-19 Referral of Preliminary Plat
- 6-7-20 Action by the City Engineer
- 6-7-21 Action by the Governing Body
- 6-7-22 Final Plat
- 6-7-23 Referral Final Plat
- 6-7-24 Requirements of the Final Plat
- 6-7-25 Final Plat Attachments
- 6-7-26 Action by the Governing Body

**OTHER PROVISIONS**

- 6-7-27 Variances
- 6-7-28 Chain Subdividing
- 6-7-29 Extraterritorial Review Agreement

6-7-3 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations (December 6, 1979) into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City or within two (2) miles of the corporate limits of the City; shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

6-7-4 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of New Vienna, Iowa, or within two (2) miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor, as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

Upon the approval of the final plat by the Governing Body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revokable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

## DEFINITIONS

6-7-5 TERMS DEFINED. For the purposes of this Ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Code of Iowa, Sec. 354.2(1))

2. "Aliquot Part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2(2))

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.

(Code of Iowa, Sec. 354.2(3))

5. "Block" means an area of land within a subdivision that is entirely bounded by streets,

railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the Governing Body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the Governing Body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

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 public highway easement, shall not be considered a division for the purpose of this chapter.

(Code of Iowa, Sec. 354.2(6) and 355.1(2))

12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.

14. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(7))

16. "Governing Body" means the City Council of the City of New Vienna, Iowa.

(Code of Iowa, Sec. 354.2(8))

17. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(9) and 355.1(3))

18. "Improvements" means changes to land necessary to prepare it for building sites

including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.

19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(10))

20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

22. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(11))

23. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before December 6, 1979.

25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(12))

27. "Performance Bond" means a surety bond or cash deposit made out to the City of New Vienna, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.

28. "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.

(Code of Iowa, Sec. 354.2(13))

29. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.

30. "Plats Officer" means the individual assigned the duty to administer this Ordinance by the Governing Body or other appointing authority.



31. "Plat of Survey" means the graphical 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.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

32. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(15))

33. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

34. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

35. "Street, Arterial" means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

36. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

37. "Street, Local" means a street primarily designed to provide access to abutting property.

38. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

39. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of December 6, 1979 into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (December 6, 1979), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(16) and 355.1(10))

40. "Subdivision Plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(17) and 355.1(11))

41. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(18) and 355.1(12))

42. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(19))

43. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

(Code of Iowa, Sec. 354.2(20))

## IMPROVEMENTS

6-7-6 IMPROVEMENTS REQUIRED. The subdivider shall, at said subdivider's expense, install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

6-7-7 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

6-7-8 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets and alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Governing Body after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the Governing Body may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Governing Body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks may be required by the Governing Body if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Governing Body after receiving the report and recommendations of the City Engineer.

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures and supervision.

6. Sewers.

a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect

or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Governing Body and the State Department of Health and the construction subject to the supervision of the Inspector.

b. Where sanitary sewers are not available, other facilities, as approved by the Governing Body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.

c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Governing Body and to the supervision of the Inspector.

6-7-9 COMPLETION OF IMPROVEMENTS. Before the Governing Body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Governing Body. Before passage of said resolution of acceptance, the Superintendent of public works shall report that said improvements meet all City specifications and Ordinances or other City requirements, and the agreements between subdivider and the City.

6-7-10 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Governing Body guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

#### MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

6-7-11 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to existing streets.

a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Governing Body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

2. Acreage subdivisions.

a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the

part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

3. Local streets.

a. Local streets shall be so planned as to discourage through traffic.

b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

4. Frontage streets.

a. Where a subdivision abuts or contains an existing or proposed arterial street, the Governing Body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Governing Body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Governing Body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

6. Street Geometrics.

a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the Governing Body shall determine for special cases.

7. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the Governing Body may deem it necessary. The Governing Body may permit comparable cutoffs or chords in place of rounded corners.

8. Street names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Governing Body.

9. Street Grades.

a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

b. No street grade shall be less than one-half (1/2) of one (1) percent.

10. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the Governing Body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

b. The width of an alley shall be twenty (20) feet.

c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the Governing Body.

11. Blocks.

a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the Governing Body, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the Governing Body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Minimum lot dimensions and sizes.

(1) Residential lots where not served by public sewer shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.

c. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building lines. Building lines shall be shown on all lots within the platted area. The Governing Body may require building lines in accordance with the needs of each subdivision.

14. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

15. Plat markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the Governing Body. The markers shall be of such material, size and length as may be approved by the Governing Body.

## PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.

6-7-12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the Governing Body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

6-7-13 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Clerk. The conference should be attended by the City Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

6-7-14 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

6-7-15 PRESENTATION TO CITY COUNCIL. The subdivider may present the sketch plan to the Governing Body for review, prior to incurring significant costs preparing the preliminary or final plat.

6-7-16 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Means any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.

2. Major Subdivision. Any subdivision that, in the opinion of the Governing Body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

6-7-17 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner

and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

6-7-18 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk four (4) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater, unless the City Council waives this requirement.



6-7-19 REFERRAL OF PRELIMINARY PLAT. The City Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the Governing Body.

6-7-20 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the Code of Iowa and the laws and regulations of the City of New Vienna, Iowa, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City Engineer's findings in duplicate to the Governing Body together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

6-7-21 ACTION BY THE GOVERNING BODY. The Governing Body shall, upon receiving the report of the City Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Governing Body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the Governing Body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the Governing Body shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the Governing Body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the Governing Body.

4. The "Conditional Approval" by the Governing Body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

6-7-22 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-7-23 REFERRAL FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the Governing Body prepare and file four (4) copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the subdivider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the Governing Body. Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the Governing Body for its recommendations and approval.

Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the Governing Body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

At its discretion the Governing Body may refer the final plat to the City Engineer pursuant to the procedure established in 6-7-18.

6-7-24 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of chapter 355, Code of Iowa, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with permanent ink on a reproducible tracing material. It shall show:

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.
5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.
6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.

6-7-25 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.  
(Code of Iowa, Sec. 354.6(2))
2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.  
(Code of Iowa, Sec. 354.11(1))
3. A complete abstract of title and an Attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(3))

4. A certificate from the County Treasurer that the subdivision land is free from taxes.  
(Code of Iowa, Sec. 354.11(5))

5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.

6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.  
(Code of Iowa, Sec. 354.11(2))

7. A certificate of dedication of streets and other public property.  
(Code of Iowa, Sec. 354.11(1))

8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

9. Resolution and certificate for approval by the Governing Body and for signatures of the Mayor and Clerk.  
(Code of Iowa, Sec. 354.11(4))

10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

11. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the Governing Body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.  
(Code of Iowa, Sec. 354.11(2) and 354.12)

6-7-26 ACTION BY THE GOVERNING BODY. Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk as stated in 6-7-23 the Governing Body shall either approve or disapprove the final plat.  
(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the Governing Body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this Ordinance, the Governing Body shall accept the same.

3. The passage of a resolution by the Governing Body accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Dubuque, County, Iowa, and

shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

#### OTHER PROVISIONS

6-7-27 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Governing Body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Ordinance. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Governing Body.

6-7-28 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the (choose one)-(zoning or restricted residence district) Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

6-7-29 EXTRATERRITORIAL REVIEW AGREEMENT. The City of New Vienna shall apply the same standards and conditions for review and approval of a subdivision in the extraterritorial review area as established in Section 6-7-4 of the City of New Vienna Municipal Code.

The City of New Vienna may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of the subdivision in the extraterritorial area. Such resolution shall be certified and recorded with the plat.

Procedures for certifying approval of subdivisions in the extraterritorial area of the City shall be the same as those established for other subdivisions with the City unless waived by the Governing Body.

(Code of Iowa, Sec. 354.8 and 354.9)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 BUILDING PERMITS

6-8-1	Name of Ordinance	6-8-5	Variations
6-8-2	Permit Required	6-8-6	Enforcement of Provisions
6-8-3	Application	6-8-7	Project Completion
6-8-4	Approval of Plans	6-8-8	Charge for Permit

6-8-1 NAME OF ORDINANCE. This ordinance shall be known as the City of New Vienna, Iowa building permits.

6-8-2 PERMIT REQUIRED. It shall be unlawful to construct or alter any building or structure in the City, including fences, where the effect of such construction or alteration is to enlarge the capacity or affect the bearing walls of any building or the roof thereof, or add or change a fence without having first secured a permit therefore. Mobile homes will be allowed as described. Structures include: portable buildings, retaining walls, and solar panels placed on the ground.

(Amended during 2009 codification)

(Amended during 2021 codification)

6-8-3 APPLICATION. Application for such permits shall be accompanied by plans and specifications in duplicate showing the work to be completed, such plans shall be verified by the signature of either the owner of the premises or by the architect or contractors in charge of the operations. Submission deadline: Permits need to be submitted no later than one week prior to a council meeting. Any submittal after that time will be added to the council proceedings for the following month.

(Amended during 2009 codification)

6-8-4 APPROVAL OF PLANS. Such applications with plans shall be referred to the City Council, who shall examine the same to determine whether the proposed construction or alteration will comply with the ordinance provision relative thereto. Upon approval, one set of plans shall be returned to the applicant with a permit, and the other shall be retained by the City Council. No permit shall be issued until after approval of the plans.

6-8-5 VARIATIONS. It shall be unlawful to vary materially from the submitted plans and specifications unless such variations are submitted in an amended plan to the City Council and approved by it.

6-8-6 ENFORCEMENT OF PROVISIONS. The City Council shall make or cause to be made such inspections as are necessary to see to the enforcement of the provisions of this chapter, and to make any tests or examinations of materials or methods to be used for the purpose of seeing that they comply with the provisions of this chapter.

6-8-7 PROJECT COMPLETION. All work specified in the plans submitted in support of the application for the permit must be started and completed within one year of issuance. If the work

has not started, the permit becomes void and a new permit must be issued to authorize any work. If the work is not complete, the Council may review the work done to date. If the condition therein existing is hazardous to the public, the Council may declare the condition a nuisance under 3-2-1(1) of this code and take action to remedy the condition as described in Title III, Chapter 2 of this code.

6-8-8 CHARGE FOR PERMIT. There shall not be a charge for the issuance of a building permit when the action to issue the permit is taken at a regular Council meeting. When it is necessary to take action at a Special Council meeting, the party requesting the permit shall pay a permit fee equaling **\$25.00** per City Official (Mayor, Councilperson, City Clerk, municipal employee) required to attend.

(Amended during 2021 codification)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 FLOODPLAIN MANAGEMENT ORDINANCE

6-9-1	Definitions	6-9-8	General Floodplain (Overlay) District (GF)
6-9-2	Statutory Authority, Findings of Fact and Purpose	6-9-9	Appointment and Duties of Board of Adjustment
6-9-3	General Provisions	6-9-10	Nonconforming Uses
6-9-4	Administration	6-9-11	Penalties for Violation
6-9-5	Establishment of Zoning (Overlay) Districts	6-9-12	Amendments
6-9-6	Floodway (Overlay) District (FW)		
6-9-7	Floodway Fringe (Overlay) District FF		

6-9-1 DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. APPURTENANT STRUCTURE - 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 - The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the "100-year flood").

3. BASE FLOOD ELEVATION (BFE) - The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. BASEMENT - 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 - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

6. ENCLOSED AREA BELOW LOWEST FLOOR - The floor of the lowest enclosed area in a building when all the following criteria are met:

a. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 6-9-7(2)(D)(1) of this Ordinance, and

b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low

damage potential uses such as building access, parking or storage, and

c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and

d. The enclosed area is not a “basement” as defined in this section.

7. EXISTING CONSTRUCTION - Any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community.

8. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

9. EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

10. FACTORY-BUILT HOME - 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 Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

11. FACTORY-BUILT HOME PARK OR SUBDIVISION - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

12. FIVE HUNDRED (500) YEAR FLOOD - A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

13. FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

14. FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

15. FLOOD INSURANCE STUDY (FIS) - A report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.



16. FLOODPLAIN - Any land area susceptible to being inundated by water as a result of a flood.

17. FLOODPLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

18. FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

19. FLOODWAY - The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

20. FLOODWAY FRINGE - Those portions of the Special Flood Hazard Area outside the floodway.

21. HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

22. HISTORIC STRUCTURE - Any structure that is:

a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.

23. LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.

24. MAXIMUM DAMAGE POTENTIAL DEVELOPMENT - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great

public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

25. MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

26. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

27. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.

28. RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

29. ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES - Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c. Basement sealing;
- d. Repairing or replacing damaged or broken window panes;
- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

30. SPECIAL FLOOD HAZARD AREA (SFHA) - The land within a community subject to the “base flood”. This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

31. START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

33. SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

a. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the first improvement of the structure, 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 correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an “historic structure”, provided the alteration will not preclude the structure’s designation as an “historic structure”. [NOTE: An alternative to exempting substantially improved/damaged historic structures from the elevation requirements of the ordinance by definition would be to handle them individually through the variance process. This option provides the community an opportunity to require that all reasonable

measures are used to reduce the structure's flood damage potential (e.g., by relocating utilities above the base flood elevation, using flood resistant materials where practicable, etc.), provided those measures do not preclude the structure's designation as an "historic structure." If this alternative is preferred, the last sentence of the previous paragraph (referring to "historic structures" should be deleted.]

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 first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

36. VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

#### 6-9-2 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE

1. 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.

##### 2. Findings of Fact.

a. The flood hazard areas of the City of New Vienna are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

b. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

c. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

##### 3. Statement of Purpose.

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of New Vienna and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 6-9-2(2)(A) of this Ordinance with provisions designed to:

a. Reserve sufficient floodplain area for the conveyance of flood flows so that flood

heights and velocities will not be increased substantially.

b. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

c. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

d. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

e. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

### 6-9-3 GENERAL PROVISIONS

1. Lands to Which Ordinance Apply. The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of City of New Vienna shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe and General Floodplain (Overlay) Districts, as established in Section 6-9-5.

2. Establishment of Official Floodplain Zoning Map. The Flood Insurance Rate Map (FIRM) for Dubuque County and Incorporated Areas, City of New Vienna, Panel 19061C0161F, dated August 10, 2021, which were prepared as part of the Flood Insurance Study for Dubuque County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

3. Rules for Interpretation of District Boundaries. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the City Council shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Council in the enforcement or administration of this Ordinance.

4. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

5. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

6. Interpretation. In their interpretation and application, the provisions of this Ordinance

shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability. The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of New Vienna or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

8. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

#### 6-9-4 ADMINISTRATION

##### 1. Appointment, Duties and Responsibilities of Local Official

a. The (LOCAL OFFICIAL) is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

b. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;

A. Development placed within the Floodway (Overlay) District results in any of the following:

(i) An increase in the Base Flood Elevations, or

(ii) Alteration to the floodway boundary

B. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

C. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this Ordinance.

(11) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

## 2. Floodplain Development Permit

a. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials or equipment, excavation or drilling operations), including the placement of factory-built homes.

b. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all structures and additions

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.

(7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

c. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

d. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

6-9-5 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

1. Floodway (Overlay) District (FW) - those areas identified as Floodway on the Official Floodplain Zoning Map;

2. Floodway Fringe (Overlay) District (FF) - those areas identified as Zone AE on the Official Floodplain Zoning Map but excluding those areas identified as Floodway, and

3. General Floodplain (Overlay) District (GF) - those areas identified as Zone A on the Official Floodplain Zoning Map.

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

6-9-6 FLOODWAY (OVERLAY) DISTRICT (FW).



1. Permitted Uses. All development within the Floodway District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway District.

2. Performance Standards. All Floodway District uses allowed as a Permitted Use shall meet the following standards.

a. No development shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

b. All development within the Floodway District shall:

(1) Be consistent with the need to minimize flood damage.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

c. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

d. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

e. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.

f. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.

g. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

h. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

i. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

1. Permitted Uses. All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

a. All development shall:

(1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

b. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

c. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

d. All new and substantially improved structures

(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

A. A minimum of two (2) openings, with positioning on at least two (2) walls, 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.) [NOTE: The NFIP’s Lowest Floor Guide requires that openings be located on “at least two walls”. While FEMA does not require the ordinance to contain this language, including it might help to ensure that the property owner will receive a lower flood insurance premium.]

B. The bottom of all openings shall be no higher than one foot above grade.

C. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electrical, 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.

e. Factory-built homes

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

f. Utility and Sanitary Systems

(1) On-site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize

or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

g. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

h. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

i. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

j. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodway Fringe (Overlay) District.

k. Accessory Structures to Residential Uses

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied: [NOTE: Community may choose to instead require any type of accessory structure to comply the elevation requirements as outlined in Section 6-9-7(2)B.

A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.

B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

D. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.

E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

F. The structure's walls shall include openings that satisfy the provisions of Section 6-9-7(2)(D)(1) of this Ordinance.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

#### 1. Recreational Vehicles

(1) Recreational vehicles are exempt from the requirements of Section 6-9-7(2)(E) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied:

A. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

B. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 6-9-7(2)(E) of this Ordinance regarding anchoring and elevation of factory-built homes.

m. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

n. Maximum Damage Potential Development - All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American

Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

#### 6-9-8 GENERAL FLOODPLAIN (OVERLAY) DISTRICT (GF)

##### 1. Permitted Uses

a. All development within the General Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the General Floodplain District.

b. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

c. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

(1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and

(2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

##### 2. Performance Standards

a. All development, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District Section 6-9-6.

b. All development, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District Section 6-9-7.

#### 6-9-9 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT

1. Appointment and Duties of Board of Adjustment - A Board of Adjustment is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this ordinance, and shall take any other action which is required of the Board.

2. Appeals - Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the

aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variance - The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards:

a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base 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.

c. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

d. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

e. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

#### 4. Hearings and Decisions of the Board of Adjustment

a. Hearings. Upon the filing with the Board of Adjustment of an Appeal or a request for a Variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

b. Decisions. The Board shall arrive at a decision on an Appeal or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Variance, the Board

shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 6-9-9(4)(B)(2).

(1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the City.

F. The requirements of the facility for a floodplain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

M. Such other factors which are relevant to the purpose of this Ordinance.

(2) Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:



- A. Modification of waste disposal and water supply facilities.
- B. Limitation of periods of use and operation.
- C. Imposition of operational controls, sureties, and deed restrictions.

D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5. Appeals to the Court - Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

#### 6-9-10 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

a. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

c. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 6-9-10(1)(B), any use which has been permitted as a Variance shall be considered a conforming use.

#### 6-9-11 PENALTIES FOR VIOLATION. Violations of the provisions of this Ordinance or

failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$(500.00 (FIVE HUNDRED DOLLARS). Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of New Vienna from taking such other lawful action as is necessary to prevent or remedy violation.

6-9-12 AMENDMENTS. The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 10 RESTRICTED RESIDENCE DISTRICT**

6-10-1	Purpose	6-10-8	Special Permits
6-10-2	Definitions	6-10-9	Protest
6-10-3	District Described	6-10-10	Fees
6-10-4	Buildings Permitted	6-10-11	Action to Abate
6-10-5	Rules and Regulations	6-10-12	Certifying Ordinance
6-10-6	Set Back		
6-10-7	Buildings Requiring Special Permits to Locate Within Restricted Districts		

6-10-1 PURPOSE. The purpose of this Ordinance is to establish a restricted residence district in the City of New Vienna, Iowa, and to provide reasonable rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds, and to provide that there shall be no use in such district except for residences, schoolhouses, churches, and other similar structures, except when a permit is granted in accordance with this Ordinance.

(Code of Iowa, Sec. 414.1 and 414.24)

6-10-2 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. "Residence" is a building used exclusively for a dwelling. No business or occupation shall be conducted therein or in conjunction therewith whereby sales or services are made in a manner that the public served enters upon the residential property. The following are excepted: a beauty shop, conducted solely by the occupant and one person not resident on the property; music or art teacher, a rooming or boarding house with no more than two guests; and for which uses no external or internal alterations of the structure are made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over one square foot.

2. "School" is a building used for educational purposes, public or private, that is regulated by the state department of public instruction as to curriculum.

3. "Garage" is a structure for sheltering motor vehicles or household equipment and/or effects.

4. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than one stall per dwelling unit, a tool or "summer" house not exceeding 100 square feet floor area, 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, nor if it is used in conjunction with or for the business of selling goods or rendering services.

5. "Church", or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs.

6-10-3 DISTRICT DESCRIBED. The following restricted residence district is hereby designated and established.

The New Vienna Restricted Residence District consists of all land area lying within the existing or amended corporate limits of the City of New Vienna, Iowa.

(Ord. 3-02, Passed June 3, 2002)

6-10-4 BUILDINGS PERMITTED. No buildings or other structures shall be hereafter erected, reconstructed, altered, repaired, or occupied within said district without first securing from the City Council a permit therefor.

(Ord. 3-02, Passed June 3, 2002)

6-10-5 RULES AND REGULATIONS. As permitted under Section 414.24 of the Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of buildings of all kinds within restricted districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, or repair any structure.

(Ord. 3-02, Passed June 3, 2002)

6-10-6 SET BACK. No residential building or residential accessory use building shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty feet, nor shall any construction be required to be built with its front further than thirty (30) feet from said front line. All buildings to be used for residential purposes shall be placed on lots of no less than 10,000 square feet.

No residence or other building shall be located in the restricted district closer than five (5) feet to the side lot lines, and no accessory building closer than five (5) feet to said side lot lines, and overhangs shall not extend over any lot line, regardless of the compliance of the main foundation with this set back rule. However, any residence, other building, or accessory building currently located closer than five (5) feet to the side lot lines, may be extended or altered in conformance with its existing side lot set back lines. In no case may the residence, other building, or accessory building be located closer to the side lot line than it is currently located. All set backs shall be measured from the main foundation line.

(Ord. 3-02, Passed June 3, 2002)

6-10-7 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. 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 residential district only if it appears that said use and the type of building will be

compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the Council. Further, the construction and/or placement of a building or structure that would otherwise be violative of Section 6-10-6 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners.

6-10-8 SPECIAL PERMITS. A 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 this City except for buildings for residences, residential accessory use, schools, churches, and church schools. Further, a special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Section 6-10-6. Any such permit shall be applied for in writing, accompanied by plans and specifications sufficient to determine compliance with applicable Ordinances of the City and/or the extent to which proposed construction deviates from the requirements of Section 6-10-6. Said application shall be made to the City Clerk at least seven (7) days before the Council meeting at which Council action is taken. No permit shall or will be granted until notice of the application has been posted at least four (4) days prior to the meeting at which final action is taken to grant or deny the permit. Such permit shall require a three-fourths (3/4) vote of all the members of the Council.

(Ord. 3-02, Passed June 3, 2002)

6-10-9 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths (3/4) vote of all the members of the Council.

6-10-10 FEES. There shall be no fee required for a permit under this Ordinance.

6-10-11 ACTION TO ABATE. Any building or structure erected, reconstructed, altered, or repaired in violation of the provisions of this Ordinance shall be deemed unlawful and a nuisance and it shall be abated according to the procedures in Chapter 1-3 of this Code or by action in the district court. Such action for abatement shall be prosecuted in the name of the municipality.

6-10-12 CERTIFYING ORDINANCE. Within fifteen (15) days after this Ordinance becomes effective the Clerk shall prepare or have prepared a plat of the restricted residence district as established by this Ordinance and certify such Ordinance and plat to the county recorder.

(Code of Iowa, Sec. 380.11)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 TREES

6-11-1	Title	6-11-10	Nuisance and Condemnation
6-11-2	Purpose	6-11-11	Protection of Trees
6-11-3	Definitions	6-11-12	Appeals
6-11-4	Tree Board	6-11-13	Interference
6-11-5	Authority	6-11-14	Penalties
6-11-6	Permits		
6-11-7	Commercial Tree Operators Within the City Limits		PLANTING & TRIMMING
6-11-8	Maintenance	6-11-15	Planting
6-11-9	Species, Cultivars, and Varieties	6-11-16	Trimming Trees

6-11-1 TITLE. This Ordinance shall be known as the Municipal Tree Ordinance for the community of New Vienna, in Dubuque County, State of Iowa.

(Ord. 2-93, Passed March 1, 1993)

6-11-2 PURPOSE. It is the purpose of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of New Vienna.

(Ord. 2-93, Passed March 1, 1993)

6-11-3 DEFINITIONS.

1. Large Trees. Those trees attaining a height of 45 feet (45') or more.
2. Park. All public parks having individual names.
3. Tree Lawn. That part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

(Ord. 2-93, Passed March 1, 1993)

6-11-4 TREE BOARD. There is hereby created and established a Tree Board for the City of New Vienna, which shall consist of five members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council. Members of the Board shall serve without compensation. The term of the Tree Board shall be three years, except that the term of two members appointed to the first Board shall be only one year and the term for two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The Tree Board will assist the City Council or their designee in the development of a comprehensive plan for

the City of New Vienna, Iowa, including planning, tree planting, and maintenance programs for all public trees. The Board will promote the goals of the tree program.

(Ord. 2-93, Passed March 1, 1993)

6-11-5 AUTHORITY. The City Council or their designee shall have the authority and jurisdiction of regulating, maintenance, and removal of trees on streets and other publicly owned property to ensure safety or preserve or enhance the aesthetics of such public sites. The City Council or their designee shall have the authority to supervise or inspect all work done under a permit issued in accordance with terms of this Ordinance. The City Council or their designee shall have the authority to formulate and publish a master tree plan with the advice, hearing, and approval of the Tree Board.

6-11-6 PERMITS. No person shall plant on any street or municipal-owned property without first filing an application and procuring a permit from the City Clerk or otherwise specified municipal authority.

(Ord. 2-93, Passed March 1, 1993)

6-11-7 COMMERCIAL TREE OPERATORS WITHIN CITY LIMITS. It shall be unlawful for any person to engage in the commercial business of tree care, pruning or removal without first filing evidence of adequate workers compensation insurance and liability insurance in the minimum amounts of \$300,000 for bodily injury or death and \$100,000 property damage indemnifying the City or any person for damages resulting from the pursuit of such endeavor as herein described. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Tree Board.

(Ord. 2-93, Passed March 1, 1993)

6-11-8 MAINTENANCE. Parkings must be at least four feet in width for tree planting on public area. No trees shall be planted within 35 lateral feet from corners or intersections. Low growing trees (reference to I.S.U. publication PM-1429D low growing trees for urban areas) are permitted under utility lines only.

All trees and shrubs on public or private property, which have branches overhanging a public street or sidewalk, shall have said branches trimmed to a clearance height of 14 feet on the street side and 10 feet on the sidewalk side.

(Ord. 2-93, Passed March 1, 1993)

6-11-9 SPECIES, CULTIVARS, AND VARIETIES. Trees can be planted on city parking by permit except the following: Boxholder, Cottonwood, European Mt. Ash, American Elm, Black Locust, Bolleana Poplar, Siberian Elm, White Poplar, Willows, Silver Maple, Russian Olive, Chinese Elm, Lombardy Poplar, Tree of Heaven, Catalpa, Weeping Birch.

(Ord. 2-93, Passed March 1, 1993)

6-11-10 NUISANCE AND CONDEMNATION. All street trees planted in violation of, or not maintained in strict compliance with the provisions of this Ordinance, or that are dead or dangerous, are declared to constitute a public nuisance. The City Council or their designee shall cause written

notice to be served on the property owner requiring such nuisances to be corrected within 30 days or the cost of correction will be assessed against the property owner.

(Ord. 2-93, Passed March 1, 1993)

6-11-11 PROTECTION OF TREES. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous, liquid, chemical, or solid substance that is harmful to such trees to come in contact with them; or set fire or permit fire to burn when such fire or the heat will injure any portion of any tree. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of 20 feet from any public tree.

Tree topping is not allowed on any public owned tree.

(Ord. 2-93, Passed March 1, 1993)

6-11-12 APPEALS. Any person who received an order from the City Council or their designee and objects to all or a part thereof, may, within 30 days of receipt thereof, notify the City Council or their designee, in writing, of the nature of the objection and request a hearing thereon. The hearing shall be held within 30 days of notice to the City Council. Within 30 days after such hearing, the Mayor shall notify the appellant of the final decision.

(Ord. 2-93, Passed March 1, 1993)

6-11-13 INTERFERENCE. No person shall prevent, or interfere with the City Council or their designee in the execution or enforcement of the Ordinance.

(Ord. 2-93, Passed March 1, 1993)

6-11-14 PENALTIES. Any person or firm, or corporation violating or failing to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor.

(Ord. 2-93, Passed March 1, 1993)

## PLANTING AND TRIMMING

6-11-15 PLANTING. All trees planted in any street, avenue or highway, shall be planted midway between the outer lines of the sidewalk and the curb, where the curb line is established, and where the curb line is not established on a line ten feet (10') from the property line. All trees now or hereafter planted in any street, avenue, or highway that interferes with the making of any improvements thereon, or with travel, or becomes dangerous, shall be removed by order of the Council, and any trees planted in any street, avenue or highway, shall be planted upon such condition and subject to such removal.

6-11-16 TRIMMING TREES. It shall be unlawful to trim or cut out in any manner any tree in any street, avenue highway or public place, unless such trimming or cutting shall be done under the personal supervision of the Inspector of Public Works except that the owner agent or occupant of any lot or parcel of land shall keep the trees on and adjoining his or her property in the street, avenue or highway so trimmed that the overhanging branches shall be at least ten feet (10') above the surface of the sidewalk or surface of the street, and in all cases all trees shall be trimmed as high as the size and shape of the tree will permit.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 SIDEWALK REGULATIONS

6-12-1	Purpose	6-12-11	Failure to Obtain Permit; Remedies
6-12-2	Definitions	6-12-12	Inspection and Approval
6-12-3	Cleaning Snow, Ice, and Accumulations	6-12-13	Barricades and Warning Lights
6-12-4	Maintenance Responsibility	6-12-14	Interference with Sidewalk Improvements
6-12-5	Liability of Abutting Owner	6-12-15	Special Assessments for Construction and Repair
6-12-6	Ordering Sidewalk Improvements	6-12-16	Notice of Assessment for Repair or Cleaning Costs
6-12-7	Repairing Defective Sidewalks	6-12-17	Hearing and Assessment
6-12-8	Notice of Inability to Repair or Barricade	6-12-18	Billing and Certifying to County
6-12-9	Standard Sidewalk Specifications	6-12-19	ADAAG Compliance
6-12-10	Permits for Construction or Removal		

6-12-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-12-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:

- a. vertical separations equal to three-fourths (3/4) inch or more.
- b. horizontal separations equal to three-fourths (3/4) inch or more.
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
- g. a sidewalk with any part thereof missing to the full depth.

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-12-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(2b) and (2e))  
(Ord. 4-2, passed November 4, 2002)

6-12-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

(Code of Iowa, Sec. 364.12(2c))

6-12-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. 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 condition 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)

6-12-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or

court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-12-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(e))

(Ord. 4-2, passed November 4, 2002)

NOTE: Please complete form at the end of this chapter.

6-12-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-12-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.

2. Sidewalks shall be on one-course construction.

3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.

4. The sidewalk bed shall be graded to the established grade.

5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to

the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

(Ord. 4-2, passed November 4, 2002)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-12-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-12-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the

work completed and the costs assessed to the property owner as provided in this chapter.

6-12-12 INSPECTION AND APPROVAL. Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

6-12-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-12-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is 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 or warning device provided by this chapter.

6-12-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-12-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-12-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-12-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be

charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

(Ord. 4-2, passed November 4, 2002)

6-12-19 ADAAG COMPLIANCE. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

(ECIA Model Code Amended in 2011)

City of New Vienna

NOTICE TO PROPERTY OWNER TO REPAIR SIDEWALK

\_\_\_\_\_  
Name(s)  
\_\_\_\_\_  
Address  
\_\_\_\_\_, Iowa \_\_\_\_\_

As owner(s) of the property described as \_\_\_\_\_  
(Lot number(s), block, addition or subdivision)  
otherwise known as \_\_\_\_\_, you are hereby  
(street number)→ (street name)→

notified in accordance with the provisions of section 364.12, Code of Iowa, that the City Council has found that the sidewalks along the street(s) abutting your property should be

\_\_\_\_\_ (repaired, reconstructed, or replaced)

for the safety of the public using said walk, and that you shall proceed to have said walks \_\_\_\_\_ in the following particulars:

(repaired, reconstructed, or replaced)

\_\_\_\_\_ (describe required work, length, and location)

Such work shall be completed within thirty (30) days from the date this notice was deposited in the mails, or the City will proceed to carry out the work specified and assess the cost thereof to you, as abutting owner, and certify the assessment to the County Treasurer for collection as other taxes. You have the right of a hearing before the Council concerning the above order if you file with the City Clerk a request for such hearing at least fifteen (15) days before the completion time required above.

In the event such cost exceeds fifty (50) dollars, it will be certified to the Treasurer for payment in three equal annual installments. Interest will be charged from the date of certification at seven (7) percent per annum until paid. Payment will be accepted at the office of the City Clerk without interest during the thirty days following acceptance of the work by the Council and before the certification to the Treasurer.

By the order of the City Council,

\_\_\_\_\_  
CITY CLERK

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 ELECTRIC TRANSMISSION LINES

6-13-1	Definitions	6-13-3	Variance
6-13-2	Prohibiting Electric Transmission Line(s)	6-13-4	Future Annexation

#### 6-13-1 DEFINITIONS.

1. Electric Transmission Line(s). A line, wire, or cable that operates at an electric voltage greater than thirty-four and one-half kilovolts (34.5 kV) and is not regulated by Iowa Code Chapter 478 (1993) and/or Iowa Code §364.2 (1993).

2. Dwelling - A permanent structure or a part of a permanent structure used as a home, residence, or sleeping place.

6-13-2 PROHIBITING ELECTRIC TRANSMISSION LINE(S). Within the municipal corporate city limits of the City of New Vienna, no electric transmission line(s) shall be constructed within one hundred (100) feet of any dwelling. Operating electric transmission line(s) in use on the date of the adoption of this Ordinance and in violation of this Ordinance may remain at their current or a lower voltage for a period not to exceed twenty-five (25) years.

6-13-3 VARIANCE. The operator of an electric transmission line(s) may petition the City of New Vienna for a variance from the application of this Ordinance. If a variance is granted, its terms shall not exceed twenty-five (25) years.

6-13-4 FUTURE ANNEXATION. Operators of electric transmission line(s) located on property that is annexed by the City of New Vienna after the adoption of this Ordinance may continue to operate the existent electric transmission line(s) in the then existing easement, at the then existing or a lesser voltage for a period not to exceed twenty-five (25) years.

(Ord. 1-94, Passed February 7, 1994)



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 INDUSTRIAL PROPERTY TAX EXEMPTION

6-14-1	Partial Exemption	6-14-5	Amount of Exemption
6-14-2	New Construction	6-14-6	Application
6-14-3	Reconstruction	6-14-7	Repeal
6-14-4	Duration	6-14-8	Limitation on Tax Exemptions

6-14-1 PARTIAL EXEMPTION. This section does hereby provide for a partial exemption from property taxation of the actual value added to the industrial real estate by the new construction of industrial real estate.

6-14-2 NEW CONSTRUCTION. New construction as referred to herein means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures.

6-14-3 RECONSTRUCTION. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

6-14-4 DURATION. The partial exemption shall be available until such time as this Ordinance is repealed by the City Council of the City of New Vienna, Iowa.

6-14-5 AMOUNT OF EXEMPTION. The actual value added to industrial real estate for the reasons specified in the Section is eligible to receive a partial exemption from taxation for a period of five (5) years. "Actual value added" as used in this section means the actual value added as of the first of the year for which the exemption is received. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, seventy-five percent;
2. For the second year, sixty percent;
3. For the third year, forty-five percent;
4. For the fourth year, thirty percent;
5. For the fifth year, fifteen percent.

However, the granting of the exemption under this section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

6-14-6 APPLICATION. An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the County Assessor by February 1st of the assessment year in which the value added is first assessed for taxation.

6-14-7 REPEAL. When in the opinion of the City Council continuation of the exemption granted in this section ceases to be of benefit to the City, the City Council may repeal this ordinance, but all existing exemptions shall continue until their expiration.

6-14-8 LIMITATION ON TAX EXEMPTIONS. A property tax exemption under this section shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Ord. 2-97, Passed October 7, 1997)

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 15 RESERVED**

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 16 URBAN REVITALIZATION PLAN**

6-16-1	Purpose	6-16-5	Application for Exemption
6-16-2	Definitions	6-16-6	City Council Action on Application
6-16-3	Adoption of an Urban Revitalization Plan	6-16-7	Use of Tax Increment Financing in Conjunction with Tax Exemption
6-16-4	Basis of Tax Exemption		

6-16-1 PURPOSE. The purpose of this Ordinance is to provide for the designation of areas in the City of New Vienna, Iowa as an Urban Revitalization Area under Chapter 404.1, Code of Iowa 2009, as amended. The area includes the property defined in Section 2-16-2(5) of this Ordinance.

6-16-2 DEFINITIONS. For use within this ordinance the following terms shall have the described meanings:

1. "City" means the City of New Vienna, Iowa.
2. "County" means Dubuque County, Iowa.
3. "Improvements" means new construction on vacant land or on land with existing structures.

(Code of Iowa, Sec. 404.3(7))

4. "Qualified real estate" means real property, other than land, which is located in a designated revitalization area and to which improvements have been added, during the time the area is so designated, which have increased the actual value by at least the percent specified in the plan adopted by the City. It also means land upon which no structure existed at the start of the new construction, which is located in a designated revitalization area and upon which new construction has been added during the time the area is so designated.

(Code of Iowa, Sec. 404.3(7))

5. "Urban Revitalization Area" means the properties described as follows, such area having been identified in a Resolution of Finding adopted by the City Council.

a. "Church Grounds" in the City of New Vienna, according to recorded plat, lying North of Harrison St., West of Lots 43, 44 & 45 and South of Jackson St. & East of Columbus St.

b. LOT 1 OF LOT 6 OF LOT 1 OF LOT 1 OF LOT 1 OF LOT 4 OF LOT 1 OF LOT 2, LOT 1 OF LOT 7 OF LOT 1 OF LOT 1 OF LOT 1 OF LOT 4 OF LOT 1 OF LOT 2, AND, LOT 2 OF LOT 7 OF LOT 1 OF LOT 1 OF LOT 1 OF LOT 4 OF LOT 1 OF LOT 1 OF LOT 2 OF SUBDIVISION OF THE NW ¼ OF THE NW ¼ OF SECTION 8, TOWNSHIP 89 NORTH,

RANGE 2 WEST OF THE 5<sup>TH</sup> P.M., IN THE CITY OF NEW VIENNA, DUBUQUE COUNTY, IOWA.

c. Lot 1 and Lot 2 of the Subdivision of Lots 20 and 21, in the Town of New Vienna Dubuque County, Iowa according to the recorded plat of said subdivision.

(Ord. 2-10, Passed May 4, 2010)

6-16-3 ADOPTION OF URBAN REVITALIZATION PLANS. The properties described in 6-16-2 are designated as Urban Revitalization Area as defined in Chapter 404, Code of Iowa 2009, as amended, and the Urban Revitalization Plans prepared by the City Council, and on which public hearings have been held, are hereby adopted in their entirety by reference. A copy of said Plans applicable to these areas is available at the office of the City Clerk, City Hall, New Vienna, Iowa.

(Code of Iowa, Sec. 404.1)

(Ord. 2-10, Passed May 4, 2010)

6-16-4 BASIS OF TAX EXEMPTION. All qualified real estate is eligible to receive a partial exemption from taxation on the actual value added by the improvements. The exemption is for a period of five years. The amount of the partial exemption is equal to a percent of the actual value added by the improvements. Once the election of the option has been made and the exemption granted, the owner is not permitted to change the method of exemption.

OPTION 1

- a. For the first year, seventy-five (75) percent
- b. For the second year, sixty (60) percent
- c. For the third year, forty-five (45) percent
- d. For the fourth year, thirty (30) percent
- e. For the fifth year, fifteen (15) percent

OPTION 2

- a. For the first year, one hundred (100) percent
- b. For the second year, eighty (80) percent
- c. For the third year, sixty (60) percent
- d. For the fourth year, forty (40) percent
- e. For the fifth year, twenty (20) percent

(Code of Iowa, Sec. 404.3)

(Ord. 2-10, Passed May 4, 2010)

6-16-5 APPLICATION FOR EXEMPTION. An application for an exemption under this Ordinance shall be filed by the owner of the property with the City Council by February 1, 2011 of the assessment year for which the exemption is first claimed, but not later than the year in which all improvements included in the project are first assessed for taxation. The application shall be in the form of a letter to the City Council and shall contain, at a minimum, the following information: The nature of the improvement, its cost, the estimated or actual date of completion, and the owner that occupied the building on the date the City adopted the Resolution of Finding.  
(Code of Iowa, Sec. 404.4)

6-16-6 CITY COUNCIL ACTION ON APPLICATION. The City Council shall approve the application, subject to review by the County Assessor, if the project is in conformance with the Plan for revitalization developed by the City, is located within a designated revitalization area, and if the improvements were made during the time the area was so designated. Such approval shall also be subject to the terms of Section 6-16-7 of this Chapter. The City Council shall forward for review all approved applications to the County Assessor by March 1 of each year with a statement describing the exemption schedule that applies to the improvements. Applications for exemption for succeeding years on approved projects shall not be required.  
(Code of Iowa, Sec. 404.4)

6-16-7 USE OF TAX INCREMENT FINANCING IN CONJUNCTION WITH TAX EXEMPTION. The City Council shall have the authority to reject or modify an application for an exemption for property, located in an Urban Renewal Area, when the implementation of the provisions of this ordinance will conflict with the financial benefits of tax increment financing received by the same property under the terms of the Urban Renewal Plan.  
(Ord. 1-06, Passed September 5, 2006)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 17 DANGEROUS BUILDING

6-17-1	Enforcement Officer	6-17-5	Conduct of Hearing
6-17-2	General Definition of Unsafe	6-17-6	Posting of Signs
6-17-3	Unsafe Building	6-17-7	Right to Demolish
6-17-4	Notice to Owner	6-17-8	Costs

6-17-1 ENFORCEMENT OFFICER. The Mayor or the Mayor's designee is responsible for the enforcement of this chapter.

6-17-2 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.  
(Code of Iowa, Sec. 657A.1 & 364.12[3a])

6-17-3 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion

thereof an attractive nuisance or hazard to the public.

6-17-4 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 unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

(Code of Iowa, Sec. 362.12[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 office 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.

6-17-5 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.

6-17-6 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 NEW VIENNA, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

6-17-7 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion



thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

6-17-8 COSTS. Costs incurred under Section 6-17-7 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

(Ord. 2015-1, Passed October 5, 2015)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 18 DELINQUENT UTILITY PAYMENTS

6-18-1	Delinquent Payments	6-18-4	Lien for Nonpayment
6-18-2	Disconnect; Notice and Hearing	6-18-5	Conflict with Other Provisions
6-18-3	Returned Checks		

6-18-1 DELINQUENT PAYMENTS. Any fee, service charge, penalty, or fine invoiced by the City to a property owner or resident under this Title VI that remains unpaid fifteen (15) days after the due date shown on the invoice or, if no due date is shown, after the date of the invoice, is delinquent and shall incur an additional penalty of twelve percent (12%) of the total amount shown on the invoice.

(Code of Iowa, Sec. 384.84(3))

6-18-2 DISCONNECT; NOTICE AND HEARING. If any fee, service charge, penalty, or fine invoiced by the City to a property owner or resident under this Title VI remains unpaid thirty (30) days after the due date shown on the invoice, or if no due date is shown, after the date of the invoice, the City Clerk will cause to be sent to the property owner or resident in whose name the delinquent charges were incurred a notice stating the nature of the delinquency and that, unless any outstanding balance is paid in full within ten (10) days of the date of the notice, the City may, at its discretion, disconnect or terminate at the property owner's cost the utility or service for which the invoice was issued.

1. Any notice sent pursuant to this section 6-18-2 may be sent by regular or certified mail and must contain the following language: "You are advised that you may request a hearing on this matter before the City Clerk by notifying the City Clerk of such request not later than noon on the day preceding the scheduled shut-off date."

2. When a hearing is requested pursuant to subsection 1 above, the City Clerk will schedule a hearing within two (2) business days of receipt of such request. The property owner or resident requesting the hearing will have the right at the hearing to present evidence or propose a payment plan. Any decision of the City Clerk at the hearing may be appealed to the City Council by giving to the City Clerk a notice of such appeal not more than ten (10) days after the hearing.

(Code of Iowa, Sec. 384.84(3))

6-18-3 RETURNED CHECKS.

1. If any check issued by a property owner or resident to pay any invoice issued by the City is returned to the City by the issuing bank for any reason, including but not limited to insufficient funds or a closed account, the City will add to the invoice a penalty of \$25.00 per returned check.

2. If a check is returned by the issuing bank, the invoice for which such check was issued

will be considered unpaid and all of the provisions of this Chapter 17 concerning delinquent payments will apply to such invoice as though the returned check had not been issued. For example, if a check is returned and more than ten (10) days have passed from the due date or date of invoice, a twelve percent (12%) penalty will be applied to the invoice, and if more than thirty (30) days have passed, a notice of termination will be mailed to the property owner. In order to bring the account current and avoid any other penalties under this Chapter 17 or any other provisions of the municipal code, the returned check fee of \$25 .00 will need to be paid in addition to any outstanding balance due on the invoice, including, if applicable, the twelve percent (12%) penalty.

6-18-4 LIEN FOR NONPAYMENT. If any amount invoiced by the City remains unpaid fifteen (15) days after the due date shown on the invoice or, if no due date is shown, after the date of the invoice, the City Clerk may certify the amount to the county treasurer's office, after which certification the amount due will be a lien upon the property or premises for which the services invoiced were provided.

(Code of Iowa, Sec. 384.84(4))

6-18-5 CONFLICT WITH OTHER PROVISIONS. In the event of any conflict or contradiction between this Chapter 18 and any other provision of Title VI concerning delinquent payments, this Chapter 18 controls.

(Ord. 17-2019, Passed June 4, 2019)

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 1 STREET GRADES, STREET NAMES AND PERMANENT CORNERS**

7-1-1	Street Grades on Harrison Street	7-1-7	Establishing Grades
7-1-2	Street Grades on Nabor Street	7-1-8	Street Grades on Wente Road and Country Drive
7-1-3	Street Grades on Iowa Street	7-1-9	Establish Grades on Certain Streets
7-1-4	Street Grades on Smith Street	7-1-10	Street Names
7-1-5	Street Grades on Mill Street and Iowa Street	7-1-11	Permanent Corners
7-1-6	Street Grades on New Vienna Road		

7-1-1 STREET GRADES ON HARRISON STREET. That the grades on Harrison Street are as shown on the plans filed with the City Clerk.

Bench Mark. Elevation 112.23 - the arrow on the hydrant at the intersection of Harrison Street and State Highway No. 136.

Commencing at the center line of State Highway No. 136 with station 0+00; thence East to the point of beginning.

Beginning at the north side at station 0+36, elevation 109.49; thence east to V.P.I. station 1+25 of a 50' V.C., elevation 110.49; thence east to V.P.I. station 2+75 of a 50' V.C., elevation 108.57; thence east to station 2+97.36, elevation 108.08, being the west end of radius of Iowa Street, center line station 3+32.86.

Beginning at the north side of station 3+68.36, elevation 106.44, being the east end of radius of Iowa Street; thence east to V.P.I. station 4+75 of a 50' V.C., elevation 104.01; thence east to V.P.I. station 5+75 of a 50' V.C., elevation 100.01; thence east to V.P.I. station 6+50 of a 50' V.C. elevation 95.92; thence east to V.P.I. station 7+50 of a 50' V.C. elevation 88.76; thence east to station 7+84, elevation 88.42 being the west end of radius of Mill Street Extension.

Beginning at the south side at station 0+36, elevation 108.11; thence east to V.P.I. station 1+60.4 of a 50' V.C., elevation 109.05; thence east to station 1+85.4, elevation 108.66.

Beginning at the south side at station 3+68.36, elevation 104.91, being the east end of radius of Iowa Street; thence east to V.P.I. station 4+50 of a 50' V.C., elevation 103.60; thence east to V.P.I. station 5+50 of a 50' V.C. elevation 100.30; thence east to V.P.I. station 6+75 of a 50' V.C., elevation 93.50; thence east to station 7+38, elevation 88.62, being the west end of radius of Mill Street extension.

7-1-2 STREET GRADES ON NABOR STREET. That the grades on Nabor Street are as shown on the plans filed with the City Clerk.

Bench Mark. Elevation 142.47 - the arrow on the hydrant at the southwest corner of Smith Street

and Public Road. Commencing at the center line of Public Road with station 0+00; thence west to the point of beginning.

Beginning at the south side at station 0+30.5, elevation 137.52; thence west to V.P.I. station 1+00 of a 50' V.C., elevation 133.00; thence west to V.P.I. station 2+75 of a 50' V.C., elevation 126.00; thence west V.P.I. station 3+75 of a 50' V.C., elevation 120.20; thence west to station 5+49, elevation 112.82.

Beginning at the north side at station 0+30.5, elevation 138.27; thence west to V.P.I. station 1+25 of a 50' V.C. elevation 132.00; thence west to V.P.I. station 2+75 of a 50' V.C., elevation 126.00; thence west to V.P.I. station 3+75 of a 50' V.C., elevation 120.20; thence west to station 5+02, elevation 116.01.

#### 7-1-3 STREET GRADES ON IOWA STREET.

1. That the grades on Iowa Street are as shown on the plans filed with the City Clerk.

Bench Mark. Elevation 112.23 - the arrow on the hydrant at the intersection of Harrison Street and State Highway No. 136.

Commencing at the center line of Jackson Street with station 0+00; thence north to the point of beginning.

Beginning at the east side at station 0+20, elevation 116.23; thence north to V.P.I. station 2+75 of a 100' V.C., elevation 117.50; thence north to V.P.I. station 4+50 of a 50' V.C., elevation 126.46; thence north to V.P.I. station 6+50 of a 50' V.C., elevation 130.52; thence north to station 6+77, elevation 130.66.

2. That the grades on Iowa Street are as shown on the plans filed with the City Clerk.

Bench Mark. Elevation 112.23 - the arrow on the hydrant at the intersection of Harrison Street and State Highway No. 136.

Commencing at the center line at Harrison with station 0+00; thence north to the point of beginning.

Beginning at the west side at station 0+35.5, elevation 108.43; thence north to station 1+88, elevation 115.60.

Beginning at the east side of station 0+35.5, elevation 107.44; thence north to station 1+88, elevation 114.61.

7-1-4 STREET GRADES ON SMITH STREET. That the grade of Smith Street from Easterly Corporation line Westerly to the center of Columbus Street in the incorporated Town of New Vienna, Iowa, be and the same is hereby established as shown on the profile of said Street as prepared and on file with the Town Clerk, which profile is hereby approved said grade being as follows, to-wit:

The Bench marks are placed at top of water hydrant on the West side of Iowa Street in South Street elevation 177.39, and also at doorsill of frame house at station 2 plus 73 on North side of Smith Street elevation 204.18 and said grade being at the corporation line which is called Station 3 plus 37.5 elevation 197.51, the same being top of the curb or finished improvement in center of the street; thence westerly in the center of the street to station 3 plus 50, elevation 197.5, angle in grade; thence to station 6 plus 50, elevation 192.00, angle in grade; thence to station 8 plus 50, elevation 183.00, angle in grade; thence to station 12 plus 00, elevation 161.30, angle in grade; thence to station 13 plus 12.5 at South end of bridge, elevation 150.2, and west end of grade on Smith Street.

7-1-5 STREET GRADES ON MILL STREET AND IOWA STREET. The grades on Mill Street and Iowa Street are as set out in this section.

1. That for the purpose of regulating future construction in, upon or along the streets and avenues herein designated, there be, and the same is hereby established, a schedule of permanent grades and elevations, as hereinafter set forth.

2. That the datum plane upon which said grades and elevations are based shall be known as City Datum, the same being permanently located and preserved on various fixtures throughout the City, descriptions and elevations of which are recorded in the plans and recorded on public file in the office of the City Clerk.

3. That previous Ordinances or portions thereof in conflict with the elevations herein set forth are herewith repealed.

4. That the following elevations shall apply at the locations designated and all future street, sidewalk and driveway improvements shall be constructed in conformity therewith.

TOP OF CURB ELEVATIONS

NOTE: The stationing in the left-hand column refers to the construction plans entitled "Plans for Street Improvements, New Vienna, Iowa, 1985". The top-of-curb elevations for a 6-inch (6") high curb are listed separately for each side and any intermediate points may be calculated in a straight line, between the elevations shown at the described locations.

<u>Station</u>	<u>Location</u>	<u>North Curb</u>	<u>South Curb</u>
<u>Mill St. from Columbus St. to Harrison St.</u>			
0+50	50 ft. East of Centerline of Columbus St.	1009.68	1009.33
1+50	150 ft. East of Centerline of Columbus St.	1008.50	1008.15
2+50	250 ft. East of Centerline of Columbus St.	1007.32	1006.97
3+33.1	333.1 ft. East of Centerline		

3+60	360	of Columbus St. ft. East of Centerline of Columbus St.	1005.82	1005.47
4+00	400	ft. East of Centerline of Columbus St.	1005.34	1004.99
5+00	500	ft. East of Centerline of Columbus St.	1004.19	1004.19
5+30.60	530.6	ft. East of Centerline of Columbus St.	1002.19	1002.19
6+18.10	618.10	ft. East of Centerline of Columbus St.	1001.57	1001.57
6+68.20	668.28	ft. East of Centerline of Columbus St.	999.10	999.85
7+38.65	738.65	ft. East of Centerline of Columbus St.	997.69	998.44
7+59.23	759.23	ft. East of Centerline of Columbus St.	995.95	996.26
8+47	847	ft. East of Centerline of Columbus St.	995.65	995.33
			995.15	995.15

Iowa Street Mill St. Return Through Main St. Return

1+83.7	40.5	ft. South of Centerline of Main Street	1000.75	1000.40
1+90.2	34	ft. South of Centerline of Main Street	1000.92	1000.60
2+24.2		Centerline of Main St.	1001.78	1001.43
3+75	150.8	ft. North of Centerline of Main Street	1004.17	1003.82
4+20	195.8	ft. North of Centerline of Main Street	1005.91	1005.26
4+83.3	35.5	ft. North of Centerline of Mill St.	1006.35	1005.85
5+55.5	107.7	ft. North of Centerline of Mill St.	1009.17	

5. That this Ordinance shall be in full force and effect from and after the date of its adoption and official publication thereof as by law required. Passed this 3rd day of June, 1985.

7-1-6 STREET GRADES ON NEW VIENNA ROAD. That the grades on New Vienna Road are as set out on this section.

1. That for the purpose of regulating future construction in, upon or along the streets and avenues herein designated, there be, and the same is hereby established, a schedule of permanent grades and elevations, as hereinafter set forth.

2. That the datum plane upon which said grades and elevations are based shall be known as City Datum, the same being permanently located and preserved on various fixtures throughout the

City, descriptions and elevations of which are recorded in the plans and recorded on public file in the office of the City Clerk.

3. That previous Ordinances or portions thereof in conflict with the elevations herein set forth are herewith repealed.

4. That the following elevations shall apply at the locations designated and all future street, sidewalk and driveway improvements shall be constructed in conformity therewith.

CENTERLINE ELEVATIONS

NOTE: The stationing in the left-hand column refers to the construction plans entitled "New Vienna Road, Street Improvement Project For The City Of New Vienna, Iowa, 1991". The right-hand column entitled "Centerline" refers to centerline elevation of the road. Any intermediate points may be calculated in a straight line, between the elevations shown at the described locations.

<u>STATION</u>	<u>LOCATION - NEW VIENNA ROAD</u>	<u>CENTERLINE</u>
1+00	71.37 feet Southwesterly of Centerline of Harrison Street	247.30
1+50	21.37 feet Southwesterly of Centerline of Harrison Street	274.10
1+71.37 (Back)	Centerline of Harrison Street	247.01
1+71.38 (Ahead)	Centerline of Harrison Street	
2+00	28.62 feet Northeasterly of Centerline of Harrison Street	246.95
2+50	78.62 feet Northeasterly of Centerline of Harrison Street	247.20
2+75	103.62 feet Northeasterly of Centerline of Harrison Street	247.42
3+00	128.62 feet Northeasterly of Centerline of Harrison Street	247.83
3+25	153.62 feet Northeasterly of Centerline of Harrison Street	248.44
3+50	178.62 feet Northeasterly of Centerline of Harrison Street	249.24
3+75	203.62 feet Northeasterly of Centerline of Harrison Street	250.23
4+00	228.62 feet Northeasterly of Centerline of Harrison Street	251.42
4+10	238.62 feet Northeasterly of Centerline of Harrison Street	251.94
4+25	253.62 feet Northeasterly of Centerline of Harrison Street	252.68
4+50	278.62 feet Northeasterly of Centerline of Harrison Street	253.79
4+75	303.62 feet Northeasterly of Centerline of Harrison Street	254.75
5+00	328.62 feet Northeasterly of Centerline of Harrison Street	255.56
5+10	338.62 feet Northeasterly of Centerline of Harrison Street	255.84
5+35	363.62 feet Northeasterly of Centerline of Harrison Street	256.50
5+50	378.62 feet Northeasterly of Centerline of Harrison Street	256.93
5+75	403.62 feet Northeasterly of Centerline of Harrison Street	257.81
6+00	428.62 feet Northeasterly of Centerline of Harrison Street	258.88
6+25	453.62 feet Northeasterly of Centerline of Harrison Street	260.15
6+50	478.62 feet Northeasterly of Centerline of Harrison Street	261.60
6+75	503.62 feet Northeasterly of Centerline of Harrison Street	263.05



6+85	513.62 feet Northeasterly of Centerline of Harrison Street	263.96
7+00	528.62 feet Northeasterly of Centerline of Harrison Street	265.05
7+50	578.62 feet Northeasterly of Centerline of Harrison Street	268.69
8+00	628.62 feet Northeasterly of Centerline of Harrison Street	272.33
8+50	678.62 feet Northeasterly of Centerline of Harrison Street	275.97
9+00	728.62 feet Northeasterly of Centerline of Harrison Street	279.61
9+50	778.62 feet Northeasterly of Centerline of Harrison Street	283.25
10+00	828.62 feet Northeasterly of Centerline of Harrison Street	286.89
10+50	878.62 feet Northeasterly of Centerline of Harrison Street	290.53
11+00	928.62 feet Northeasterly of Centerline of Harrison Street	294.17
11+25	953.62 feet Northeasterly of Centerline of Harrison Street	296.07
11+50	978.62 feet Northeasterly of Centerline of Harrison Street	297.72
11+75	1003.62 feet Northeasterly of Centerline of Harrison Street	299.22
12+00	1028.62 feet Northeasterly of Centerline of Harrison Street	300.51
12+25	1053.62 feet Northeasterly of Centerline of Harrison Street	301.58
12+50	1078.62 feet Northeasterly of Centerline of Harrison Street	302.43
12+75	1103.62 feet Northeasterly of Centerline of Harrison Street	303.08
13+00	1128.62 feet Northeasterly of Centerline of Harrison Street	303.50
13+25	1153.62 feet Northeasterly of Centerline of Harrison Street	303.72
13+50	1178.62 feet Northeasterly of Centerline of Harrison Street	303.72
13+79.5	1208.12 feet Northeasterly of Centerline of Harrison Street	303.40

(Ord. 3-91, Passed August 19, 1991)

7-1-7 ESTABLISHING GRADES. For the purpose of establishing grades in the streets in the Town of New Vienna, the following names point shall be taken as the starting point, to-wit: The North end of the stone door sill of St. Boniface Church. Elevation assumed at 200, marked by an X. Said church being located on the West side of Columbus Street, and North of Jackson Street, in said Town.

7-1-8 STREET GRADES ON WENTE ROAD AND COUNTRY DRIVE. The street grades on Wente Road and Country Drive are as set out in this section.

1. That for the purpose of regulating future construction in, upon or along the streets and avenues herein designated, there be, and the same is hereby established, a schedule of permanent grades and elevations, as hereinafter set forth.

2. That the datum plane upon which said grades and elevations are based shall be known as USGS Datum, the same being permanently located and preserved on various fixtures throughout the City.

3. That previous Ordinances or portions thereof in conflict with the elevations herein set forth are herewith repealed.

4. That the following elevations shall apply at the locations designated and all future street, sidewalk and driveway improvements shall be constructed in conformity therewith.

ELEVATIONS

<u>STATION</u>	<u>TOP OF CURB</u>	<u>LOCATION - WENTE ROAD</u>
1+17.13	1002.07	48.13' Southeasternlly of the intersection of the centerlines of Smith Street and Wente Road (Note: All subsequent distances are measurements from this intersection).
2+67.50	1003.87	198.5'
2+75	1003.95	206'
2+90	1004.02	221'
2+92.05	1004.02	223.05'
3+00	1004.00	231.0'
3+12.5	1003.91	243.5'
3+15	1003.89	246'
3+25	1003.81	256'
3+44.85	1003.74	275.85'
3+50	1003.75	281'
3+75	1003.89	306'
4+00	1004.25	331'
4+25	1004.82	356'
4+35	1005.10	366'
4+45	1005.40	376'
4+50	1005.55	381'
4+75	1006.05	406'
4+85	1006.21	416'
5+00	1006.30	431'
5+05.1	1006.31	436.1'
5+25	1006.21	456'
5+50	1006.06	481'
5+55	1006.06	486'
5+62.5	1006.06	493.5'
5+75	1006.12	506'
6+00	1006.39	531'
6+65	1007.36	596'
6+75	1007.54	606'
7+00	1008.20	631'
7+25	1009.16	656'
7+35	1009.64	666'
7+50	1010.39	681'
9+00	1017.89	831'
9+25	1019.08	856'
9+50	1020.14	881'
10+25	1023.14	956'

10+50	1024.20	981'
10+75	1025.39	1006'
11+00	1026.64	1031'
11+25	1027.92	1056'
11+50	1029.26	1081'
11+75	1030.67	1106'
12+00	1032.14	1131'
13+12.5	1038.89	1243.5'
13+25	1039.27	1256
13+50	1040.84	1281'
13+75	1041.80	1306'
13+87.5	1042.18	1318.5
14+00	1042.53	1331'
14+17.5	1042.94	1348.5'
14+25	1043.07	1356'
14+35	1043.19	1366'
16+74.96	1045.59	1605.96'

<u>STATION</u>	<u>LEFT SIDE TOP OF CURB</u>	<u>LOCATION - COUNTRY DRIVE</u>
0+66	1043.35	16' North of the intersection of the centerlines of Wente Rd. and Country Dr. (Note: All subsequent distances are from this centerline intersection)
0+75	1043.55	25'
0+90	1043.90	40'
1+00	1044.10	50'
1+25	1044.37	75'
1+32.95	1044.38	82.95'
1+50	1044.31	100'
1+60	1044.19	110'
1+93.5	1043.62	143.5'
2+00	1043.51	150'
2+25	1043.24	175'
2+44.67	1043.18	194.67'
2+50	1043.18	200'
2+75	1043.33	225'
3+00	1043.69	250'
3+23.5	1044.22	273.5'
4+39.8	1046.80	389.8

7-1-9 ESTABLISH GRADES ON CERTAIN STREETS

1. That for the purpose of establishing and maintaining the grade of Church Street from Washington Street to Columbus Street and within the City of New Vienna, Iowa.

2. That for the purpose of establishing and maintaining the grade of Jackson Street from Washington Street to Columbus Street and within the City of New Vienna, Iowa.

3. That for the purpose of establishing and maintaining the grade of Mill Street from Fork Street to Columbus Street and within the City of New Vienna, Iowa.

4. That for the purpose of establishing and maintaining the grade of Fork Street from Harrison Street to Main Street and within the City of New Vienna, Iowa.

5. That for the purpose of establishing and maintaining the grade of Main Street from Columbus Street to Iowa Street and within the City of New Vienna, Iowa.

6. That for the purpose of establishing and maintaining the grade of Water Street from Columbus Street to Iowa Street and within the City of New Vienna, Iowa.

7. That for the purpose of establishing and maintaining the grade of Iowa Street from Main Street to Water Street and within the City of New Vienna, Iowa.

The following bench marks were used to establish the aforementioned datum planes:

Bench Mark: Northwest bolt of fire hydrant at NW corner of Mill Street and Washington Street, elevation of 1004.84.

Bench Mark: Northeast bolt of fire hydrant at NE corner of Highway 136 and Mill Street, elevation of 1011.68.

Bench Mark: Northwest bolt of fire hydrant at SE corner of Jack Street (? Street or Ave?) and Washington Street, elevation of 1028.37.

Bench Mark: Southeast bolt of fire hydrant at Washington Street and Church Street, elevation of 1036.18.

Bench Mark: Northeast bolt of fire hydrant at NE corner of Main Street and Columbus Street, elevation of 1006.82.

The following grades have been established for corresponding streets within the City of New Vienna, Iowa. The stationing in the left-hand column refers to the construction plans entitled "2000 Street Improvement Project, City of New Vienna."

STATION	TOP OF CURB ELEVATION		DISTANCE
	LEFT	RIGHT	
CHURCH STREET: Distance is measured from centerline intersection of Washington St. and Church St.			
100 + 60	1,035.07	1,035.48	53
100 + 80	1,035.30	1,035.73	73
101 + 00	1,035.53	1,035.98	93
101 + 20	1,035.76	1,036.12	113
101 + 40	1,036.00	1,036.11	133
101 + 60	1,036.23	1,035.99	153
101 + 80	1,036.46	1,035.86	173
102 + 00	1,036.66	1,035.74	193
102 + 20	1,036.72	1,035.62	213
102 + 40	1,036.63	1,035.50	233
102 + 60	1,036.50	1,035.38	253
102 + 80	1,036.38	1,035.26	273
103 + 00	1,036.26	1,035.13	293
103 + 20	1,036.13	1,035.01	313
103 + 40	1,036.01	1,034.89	333

JACKSON STREET: Distance is measured from centerline intersection of Washington St. and Jackson St.			
STATION	LEFT	RIGHT	DISTANCE
100 + 60	1,028.32	1,026.24	29
100 + 80	1,028.34	1,026.39	49
101 + 00	1,027.99	1,026.54	69
101 + 20	1,027.84	1,026.69	89
101 + 40	1,027.69	1,026.72	109
101 + 60	1,027.54	1,026.60	129
101 + 80	1,027.39	1,026.33	149
102 + 00	1,027.22	1,025.91	169
102 + 20	1,026.89	1,025.34	189
102 + 40	1,026.40	1,024.72	209
102 + 60	1,025.82	1,024.11	229
102 + 80	1,025.24	1,023.54	249
103 + 00	1,024.65	1,023.08	269
103 + 20	1,024.07	1,022.72	289

WEST MILL STREET (West): Distance is measured from centerline intersection of Fork St. and West Mill St.			
STATION	LEFT	Right Pavement Joint	DISTANCE
		RIGHT	
100 + 20	1,006.40	1,005.28	13
100 + 40	1,005.90	1,004.89	33
100 + 60	1,005.64	1,004.49	53
100 + 80	1,005.38	1,004.12	73
101 + 00	1,005.12	1,003.77	93
101 + 20	1,004.85	1,003.40	113
101 + 40	1,004.59	1,003.25	133
101 + 60	1,004.33	1,003.09	153
101 + 80	1,004.07	1,002.93	173
102 + 00	1,003.81	1,002.77	193
102 + 20	1,003.54	1,002.57	213
102 + 40	1,003.28	1,002.38	233
102 + 60	1,003.02	1,002.21	253
102 + 80	1,002.76	1,002.03	273
103 + 00	1,002.97	1,001.94	293

WEST MILL STREET (East): Distance is measured from centerline intersection of Washington St. and West Mill St.			
STATION	LEFT	RIGHT	DISTANCE
		Right Pavement Joint	
100 + 20	1,003.56	1,002.50	44
100 + 40	1,003.74	1,002.84	64
100 + 60	1,004.10	1,003.26	84
100 + 80	1,004.46	1,003.62	104
101 + 00	1,004.82	1,003.97	124
101 + 20	1,005.18	1,004.30	144
101 + 40	1,005.53	1,004.69	164
		Right Top of Curb	
101 + 60	1,005.89	1,005.60	184
101 + 80	1,006.25	1,005.80	204
102 + 00	1,006.64	1,006.01	224
102 + 20	1,007.11	1,006.31	244
102 + 40	1,007.61	1,006.71	264
102 + 60	1,008.11	1,007.20	284
102 + 80	1,008.75	1,007.70	304
103 + 00	1,009.59	1,008.72	324

NORTH FORK STREET: Distance is measured from centerline intersection of Main St. and Harrison St.

All Grades are Proposed Centerline Elevation

STATION	LEFT	RIGHT	DISTANCE
100 + 20	998.61		25
100 + 40	999.83		50
100 + 60	1,000.87		75
100 + 80	1,001.81		100
101 + 00	1,002.76		125
101 + 20	1,003.70		150
101 + 40	1,004.30		175
101 + 60	1,004.80		200
101 + 80	1,005.29		225
102 + 00	1,005.78		250
102 + 20	1,006.27		275
102 + 40	1,006.76		300
102 + 60	1,007.26		325
102 + 80	1,007.75		350
103 + 00	1,008.24		375
103 + 20	1,008.73		400
103 + 40	1,009.22		425
103 + 60	1,009.72		450
103 + 80	1,010.21		475
104 + 00	1,010.78		500
104 + 20	1,011.36		525
104 + 40	1,011.93		550
104 + 60	1,012.51		575

MAIN STREET: Distance is measured from centerline intersection of Columbus St. and Main St.

STATION	LEFT	RIGHT	DISTANCE
101 + 20	1,005.34	1,004.48	43
101 + 40	1,005.41	1,004.66	63
101 + 60	1,005.37	1,004.70	83
101 + 80	1,005.20	1,004.55	103
102 + 00	1,004.97	1,004.32	123
102 + 20	1,004.74	1,004.10	143
102 + 40	1,004.51	1,003.87	163
102 + 60	1,004.20	1,003.53	183
102 + 80	1,003.88	1,003.20	203
103 + 00	1,003.57	1,002.86	223
103 + 20	1,003.27	1,002.61	243
103 + 40	1,002.96	1,002.37	263
103 + 60	1,002.66	1,002.12	283

IOWA STREET: Distance is measured from centerline intersection of Main St. and Iowa St.

<b>STATION</b>	<b>LEFT</b>	<b>RIGHT</b>	<b>DISTANCE</b>
100 + 40	997.00	995.94	222
100 + 60	998.08	996.49	202
100 + 80	998.43	997.04	182
101 + 00	998.77	997.59	162
101 + 20	999.12	998.14	142
101 + 40	999.46	998.69	122
101 + 60	999.81	999.24	102
101 + 80	1,000.17	999.76	82
102 + 00	1,000.59	1,000.21	62
102 + 20	1,001.03	1,000.63	42

WATER STREET: Distance is measured from centerline intersection of Columbus St. and Water St.

<b>STATION</b>	<b>LEFT</b>	<b>RIGHT</b>	<b>DISTANCE</b>
101 + 20	1,001.07	1,000.32	44
101 + 40	1,001.04	1,000.23	64
101 + 60	1,000.84	1,000.08	84
101 + 80	1,000.49	999.93	104
102 + 00	1,000.12	999.78	124
102 + 20	999.75	999.57	144
102 + 40	999.37	999.23	164
102 + 60	999.06	998.83	184
102 + 80	998.86	998.43	204
103 + 00	998.72	998.03	224
103 + 20	998.58	997.63	244
103 + 40	998.44	997.23	264
103 + 60	998.30	996.83	284
103 + 80	998.16	996.43	304

(Ordinance 2-00 passed on September 6<sup>th</sup>, 2000)



7-1-10 STREET NAMES. The names of all streets hereinafter listed shall be known as, named and designated herein:

1. The street running north and south on Highway 136 shall be known and designated as Columbus Street.
2. The street west of and parallel with Columbus Street shall be known and designated as Washington Street.
3. The street west of and parallel with Washington Street shall be known and designated as Fork Street.
4. The street west of and parallel with Fork Street shall be known and designated as West View Street.
5. The street east of and parallel with Columbus Street shall be known and designated as Iowa Street.
6. The street east of and parallel with Iowa Street shall be known and designated as Maquoketa Street.
7. The street running east and west on the north side of the church shall be known and designated as Church Street.
8. The street running east and west on the south side of the church and school and extending to the east and west Corporate Lines of the town shall be known and designated as Jackson Street.
9. The street parallel and south of Jackson Street shall be known and designated as Harrison Street.
10. The street south of and parallel with Harrison Street from Highway 136 west to Fork Street shall be known and designated as Mill Street.
11. The street south of and parallel with Harrison Street from Highway 136 east shall be known and designated as New Vienna Road.
12. The street south of and parallel with Mill Street and New Vienna Road shall be known and designated as Main Street.
13. The street south of and parallel with Main Street shall be known and designated as Water Street.
14. The street south of and parallel with Water Street shall be known and designated as Jefferson Street.
15. The street south of and parallel with Jefferson Street shall be known and designated as Smith Street.

7-1-11 PERMANENT CORNERS. The plat of said town made by Paul Ilg., County Surveyor, in June 1897, be, and the same is hereby established and confirmed as the true plat of said Town of New Vienna, and the blocks, squares and streets therein designated and located are as originally laid out and established in town and the corners of said blocks and squares as designated and located by said Plat are the permanent corners of said blocks and squares.

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 2 VACATED STREETS AND ALLEYS**

- |       |  |       |   |
|-------|--|-------|---|
| 7-2-1 | Vacating Stanton Road<br>and Conveying the Land Vacated          | 7-2-3 | Vacating an Alley Between<br>Water Street and Main Street |
| 7-2-2 | Vacating an Alley Between<br>Smith Street and Maquoketa<br>River | 7-2-4 | Vacating An Alley   |

7-2-1 VACATING STANTON ROAD AND CONVEYING THE LAND VACATED. Be it ordained that the said Stanton Road from its conjunction with Smith Street and running thence southeasterly to the corporation limits of the Town of New Vienna be, and the same is hereby, vacated in full, and the plat showing a division of said vacated strip into lots A and B and which plat is attached to this Ordinance and made a part thereof be and the same is hereby approved, and Lot A shown thereon is hereby transferred and conveyed in fee simple to Ferdinand Freking, the owner of the property adjoining said Lot B, that the Town Clerk be and is hereby directed to certify a copy of this Ordinance and of the plat thereto attached together with the proof of publication of this Ordinance to the County Recorder for record, and upon the acceptance of the respective grants herein made by the parties in interest duly endorsed hereof, and upon the expiration of the time fixed by law from and after the publication of this Ordinance, the vacation of said road is to be deemed completed.

7-2-2 VACATING AN ALLEY BETWEEN SMITH STREET AND MAQUOKETA RIVER. That the portion of alley located between Lots 1 and 28, and Lots 2 and 29, lying north of Smith Street and south of the Maquoketa River, all in the original plat of the Town of New Vienna, Dubuque County, Iowa, be and the same is hereby vacated and discontinued.

1. That Nellis Neuhaus is the owner of the real estate that abuts said vacated alley, described in 6-14-2, and she has agreed to purchase said vacated alley.
2. That the Town of New Vienna will convey said portion of the alley to Nellie Neuhaus upon payment of One Dollar (\$1.00) and other valuable consideration and the Mayor and Town Clerk of said town are hereby directed to execute the deed accordingly on behalf of the Town of New Vienna.
3. That the Town Clerk be and he is hereby directed to file for record a duly certified copy of this Ordinance in the office of the County Recorder of Dubuque County, Iowa.
4. That any and all Ordinances in conflict herewith be and the same are hereby repealed.
5. That this Ordinance being deemed urgent and in the interest of the public welfare shall be in force and effect immediately upon its final passage, adoption and approval of Town Council and publication as proved by law.

(Adopted and passed by the Town Council this 2nd day of June, 1966.)

7-2-3 VACATING AN ALLEY BETWEEN WATER STREET AND MAIN STREET. That there be vacated that portion of an alley adjacent on the East Side of Lots 91, 92 and 93 from the north edge of Water Street thence north to the south edge of Main Street, Town of New Vienna, Dubuque County, Iowa, and that a Quit Claim Deed be given to the Town of New Vienna, Iowa, conveying all their, title and interest to the Town of New Vienna, Iowa, to be used in the future as part of the town park located on the east side of aforesaid alley.

That said Ordinance shall become effective upon posting a copy of this Ordinance in three public places in the Town of New Vienna, Iowa, as provided by law.

(Passed, adopted, and approved this 7th day of July, 1969.)

7-2-4 VACATING AN ALLEY. That the portion of the alley adjacent on the west side of Lots 22, 23, and 24 and adjacent on the east side of Lots 94, 95, and 96 except that the city retain an easement for utility purposes, all of the original plats of the City of New Vienna, Dubuque County, Iowa be hereby vacated.

This Ordinance shall be in full force and effect from and after its passage and posting in three public places in the City of New Vienna, Iowa.

(Passed and adopted and approved this 4th day of June, 1975.)

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 3 ELECTRIC FRANCHISE**

7-3-1	Electric Franchise Granted	7-3-8	Service Rendered
7-3-2	City Held Harmless	7-3-9	Term
7-3-3	Excavations	7-3-10	Expense of Publication
7-3-4	Company Facilities	7-3-10	Franchise Granted on Condition
7-3-5	Meters	7-3-12	Franchise Agreement not to be Modified
7-3-6	Condition of System		
7-3-7	Franchise not Exclusive		

7-3-1 ELECTRIC FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of New Vienna, Dubuque County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the said City of New Vienna, Dubuque County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the said City of New Vienna, Dubuque County, Iowa, to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

7-3-2 CITY HELD HARMLESS. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system

7-3-3 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

7-3-4 COMPANY FACILITIES. The Company shall, 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 at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the

Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

7-3-5 METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

7-3-6 CONDITION OF SYSTEM. The system authorized by this Ordinance shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

7-3-7 FRANCHISE NOT EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

7-3-8 SERVICE RENDERED. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

7-3-9 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

7-3-10 EXPENSE OF PUBLICATION. The expense of the publication of this Ordinance shall be paid by the Company.

7-3-11 FRANCHISE GRANTED ON CONDITION. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

7-3-12 FRANCHISE AGREEMENT NOT TO BE MODIFIED. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of New Vienna with respect to the rights contained herein, and may not be superceded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City of New Vienna as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of New Vienna enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

(Ord. 3-10, Passed June 7, 2010)

NOTICE OF FRANCHISE PARTIAL ASSIGNMENT

April 16, 2008

City of New Vienna  
Jane Niehaus  
City Clerk  
PO Box 19  
New Vienna, IA 52065-0019

Dear City Clerk,

We are writing on behalf of Interstate Power and Light Company (IPL) and ITC Midwest LLC (ITC) to notify you that the proposed sale of electric transmission assets between Interstate Power and Light Company, an Iowa corporation ("Assignor") and ITC Midwest LLC, a Michigan limited liability company, as contemplated in the Asset Sale Agreement by and between Assignor and Assignee dated as of January 18, 2007 (the "Asset Sale Agreement"), has now closed.

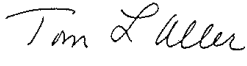
Accordingly, <sup>IPL</sup> Assignor has now assigned to <sup>ITC Midwest</sup> Assignee that portion, *and only that portion*, of <sup>IPL</sup> Assignor's right, title and interest in and to its electric franchise granted by the City of New Vienna ("City") related to the Purchased Transmission Assets as defined in the Asset Sale Agreement.

<sup>ITC Midwest</sup> Assignee has assumed responsibility for the electric transmission facilities located within your community and has agreed to be bound by the terms and conditions of the existing Electric Franchise, Ordinance 2-85 currently in effect and expiring on 9/4/2010.

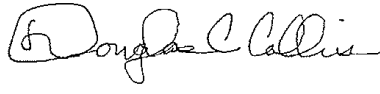
<sup>ITC Midwest</sup> Assignee has agreed to execute any and all necessary documents as requested by the City to verify the partial assignment and agrees to forward same to the City.

No provision set forth in the partial assignment shall be deemed to enlarge, alter or amend the terms or provisions of the electric franchise. If you have questions, please contact Bonnie Donnolly, Community Relations Manger, Alliant Energy-Interstate Power and Light Co. at 319-786-7266.

Interstate Power and Light Company

By: 

ITC Midwest LLC

By: 

ITC Holdings Corp., as sole member

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 4 GAS FRANCHISE**

7-4-1	Grant of Authority	7-4-7	Responsibility for Claims and Actions
7-4-2	Street Excavation	7-4-8	Termination of Rights
7-4-3	Installation of Piping	7-4-9	Grant of Authority
7-4-4	Maintenance of System	7-4-10	Repeal of Ordinance
7-4-5	Authority of City Over Streets	7-4-11	Adoption of Ordinance
7-4-6	Supply of Gas		

7-4-1 GRANT OF AUTHORITY. That Peoples Natural Gas Company, Division of UtiliCorp United Inc., its lessees, successors and assigns, hereinafter referred to as Grantee, be and are hereby granted a non-exclusive authority for a period of twenty-five (25) years, to erect, construct, maintain and operate, a gas distribution system and any and all necessary mains, pipes, services and other appurtenances and equipment thereunto appertaining in, upon, over, across and along the streets, alleys, bridges and public places in the City of New Vienna, Iowa for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in said City and for the purpose of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of said City to other cities, towns and customers.

7-4-2 STREET EXCAVATION. Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public place, within the corporate limits of the City of New Vienna, Iowa the same shall be done in a manner so as not to unreasonably interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the Grantor. In the event that the Grantee shall fail to comply with the provisions of this section after having been given reasonable notice, the Grantor may do such work as may be needed to properly repair said thoroughfare and the cost thereof shall be repaid to the Grantor by the Grantee.

7-4-3 INSTALLATION OF PIPING. The Grantee in constructing and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City of New Vienna, Iowa and in laying and installing its mains, services, piping, and related appurtenances and equipment, shall not in any manner interfere with or injure any improvement which said City now has or may hereafter have upon any of its streets, alleys, highways or public places.

7-4-4 MAINTENANCE OF SYSTEM. Grantee agrees for and in behalf of itself, its lessees, successors and assigns, that for and during the term and period of this grant, it will maintain in the City an adequate, modern, standard and sufficient gas system and equipment and to maintain and operate the same in a modern and adequate fashion.



Grantee will from time to time during the term of this Ordinance make such enlargements and extensions of its distribution system as the business of the Grantee and the growth of said City justify, in accordance with its Rules and Regulations relating to customer connections and main and service line extensions currently in effect and on file from time to time with the Iowa State Commerce Commission or other competent authority having jurisdiction in the premises; provided, however, that no obligation shall extend to, or be binding upon the Grantee, to construct or extend its mains or furnish natural gas or natural gas service within said City if Grantee is, for any reason, unable to obtain delivery of natural gas at or near the corporate limits of said City or an adequate supply thereof to warrant the construction or extension of its mains, for the furnishing of such natural gas or gas service; provided, further, that when the amount of natural gas supplied to Grantee at or near the City limits of said City is insufficient to meet the additional firm requirements of connected or new consumers, Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural gas for such additional firm requirements to residential, commercial and industrial consumers in that order of priority.

7-4-5 AUTHORITY OF CITY OVER STREETS. Grantee agrees for and in behalf of itself, its lessees, successors and assigns, that all authority and rights in this Ordinance contained shall at all times be subject to all rights, power and authority now or hereafter possessed by the City of New Vienna, Iowa, to regulate the manner in which grantee shall use the streets, alleys, bridges and public places of said City and concerning the manner in which Grantee shall use and enjoy the franchise herein granted.

7-4-6 SUPPLY OF GAS. Grantee shall, at all times, maintain an adequate pressure and adequate supply of clean, standard gas of the British Thermal Unit heating value of not less than that prescribed in its rules and Regulations relating thereto in effect and on file from time to time with the Iowa State Commerce Commission or other competent authority having jurisdiction in the premises. Should the British Thermal Units fall below the limitation set forth in its appropriate Rules and Regulations, the rate then in effect shall be automatically and correspondingly lowered and reduced during any period or periods of time in which such lower British Thermal Unit value shall be furnished. The City shall have the privilege of requesting Grantee to furnish satisfactory proof of British Thermal Unit content of the gas.

7-4-7 RESPONSIBILITY FOR CLAIMS AND ACTIONS. The Grantee shall hold the Grantor harmless from any and all claims and actions, litigation or damage, arising out of the passage of this Ordinance or of the construction, erection, installation, maintenance or operation of its properties operated by authority of this Ordinance within the corporate limits of the City of New Vienna, Iowa or the negligence of its employees in the operation thereof, including the Court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the Grantor shall be served by the Grantor upon the Grantee. The Grantee shall have the right to defend in the name of the Grantor and to employ counsel for such purpose.

7-4-8 TERMINATION OF RIGHTS. If the Grantee shall be in default in the performance of any of the terms and conditions of this Ordinance and shall continue in default for more than thirty (30) days after receiving notice from the City of New Vienna, Iowa of such default, the said City may, by ordinance duly passed and adopted, terminate all rights granted under this Ordinance to the Grantee. The said notice of default shall specify the provision or provisions in the performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of the State of Iowa for the service of original notices in civil actions.

7-4-9 GRANT OF AUTHORITY. The right and authority herein granted shall be non-exclusive and shall be and continue for a period of twenty-five (25) years from and after the effective date of this Ordinance.

7-4-10 REPEAL OF ORDINANCE. Ordinance No. 56 of the City of New Vienna, Iowa is hereby repealed as of the effective date hereof.

7-4-11 ADOPTION OF ORDINANCE. This Ordinance following its passage, its ratification by a majority of the qualified voters of said City, voting at an election called for the purpose of voting thereon, and its publication as by law provided, shall become effective upon its acceptance by the Grantee.

(Adopted by the City Council May 7, 1990.)

(Passed at election June 26, 1990.)

(Accepted by Peoples Natural Gas September 6, 1990.)



## Aquila

March 18, 2002

Jane Niehaus  
City Clerk  
City of New Vienna  
7271 Columbus Street  
P O Box 19  
New Vienna, IA 52065-0019

Dear Ms. Niehaus:

I am very pleased to announce that on March 18, our corporate name changed from UtiliCorp United to Aquila, Inc. [pronounced ah-KWILL-uh]. Along with this change, the names of all of our operating divisions, including Peoples Natural Gas/EnergyOne, will also change to Aquila.

Over the past few years, you may have known us by as many as three different names – EnergyOne, UtiliCorp, and Peoples Natural Gas. Adopting a single name for all of our operations will help eliminate the public confusion and operational complexities resulting from multiple names in the marketplace. A single name also will best leverage our resources to build and strengthen Aquila in order to serve you even better. The Aquila name has been part of the UtiliCorp family of businesses since the early 1990s and until now represented only our wholesale energy business.

The transition to our new name will be an orderly, cost-effective process, beginning with the Aquila name and logo appearing on customer bills and various communication materials. Later the new identity will be applied to signs, vehicles and uniforms.

While you will notice the name change, we want to assure you that one thing will not change – our commitment to continue providing your community with safe, reliable energy and quality customer service.

As always, we look forward to working with your community. If you have any questions regarding our name change, or if I can personally be of service to you, please do not hesitate to call me at 641-792-0640 or 1-888-521-4059. *done via email Aug 10 - 24-02*

Sincerely,

Marv Oppedal  
Director, Community Relations



one vision  
one community  
one company

July 14, 2008

Mayor Ron Boeckenstedt  
City of New Vienna  
7271 Columbus St.  
New Vienna, IA 52065-0019

Dear Mayor Boeckenstedt:

Black Hills Corporation is pleased to announce the completion of our purchase of five Aquila Inc., utilities in four states, including the natural gas utility serving you locally in Iowa. Black Hills has a 125-year history of serving our customers and communities. We look forward to bringing that proud tradition to the *City of New Vienna*.

As we transition from Aquila to Black Hills, our focus will remain on our customers and the communities and providing safe and reliable service to improve life with energy. Although you may not see an immediate change in the name, all Aquila trucks, signs, and customer bills will be renamed Black Hills Energy at a later time. All Aquila employees in your community are now Black Hills Energy employees, so the friends and contacts you are familiar with are still here for you. Current agreements between Aquila and our business associates will remain in force, and we look forward to our ongoing commitment to community programs and partnerships.

A couple things have changed. Our new 24/7 service center number is (888) 890-5554; the 24/7 emergency assistance number is (800) 694-8989.

While Black Hills is a diversified energy company headquartered in Rapid City, S.D., our focus will remain on you, our customer. That is one of the hallmarks of the Black Hills culture. Overall, Black Hills now provides electric utility services to 196,500 customers in Colorado, South Dakota, Wyoming and Montana, and natural gas utility services to 553,500 customers in Colorado, Iowa, Kansas, Nebraska and Wyoming. Our wholesale energy businesses generate electricity, produce natural gas, oil and coal, and market energy.

I know you may have questions not covered here. Please contact me at 563-583-0415 ext 22 if you have any questions. We appreciate your business and look forward to working with you and your community.

Sincerely,

Laura Roussell, External Affairs Manager  
Black Hills Energy  
1015 Cedar Cross Rd  
Dubuque, IA 52003

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 5 TELEPHONE FRANCHISE**

7-5-1	Grant of Authority	7-5-6	Repeal of Ordinance
7-5-2	Grantee's Rights and Privileges	7-5-7	Severability
7-5-3	Use of Public Ways or Grounds	7-5-8	Cost of Publication and Election
7-5-4	Responsibility for Claims and Actions	7-5-9	Acceptance and Election
7-5-5	Unlawful to Injure Grantee's Property		

7-5-1 GRANT OF AUTHORITY. General Telephone, Co. of the Midwest, a corporation, its successors and assigns, (hereinafter referred to as "Grantee"), is hereby granted a franchise for a period of twenty-five (25) years from the effective date of this ordinance to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, subs, anchors, cables, vaults, laterals, conduits and other fixtures, and equipment in, upon, through, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the corporate limits of the City of New Vienna, Iowa, (hereinafter referred to as "Municipality"), as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the Municipality, to adjacent rural areas and to the public at large telephone service, local and long distance, and communication by telephone or other electric signals, and for the conduct of a general telephone business therein.

7-5-2 GRANTEE'S RIGHTS AND PRIVILEGES. Grantee's rights and privileges in the public ways and ground of the municipality shall be exercised as follows:

1. Locations of its existing system are hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be under the supervision of Municipality's street committee or such other officer or officers as may be designated by the Mayor or Council for that purpose.

2. The installation of Grantee shall be so placed and the servicing and operation thereof so performed as to not unreasonably interfere with ordinary travel on the public ways or with ingress to or egress from public or private property.

3. Grantee may make excavations in public grounds or ways, and may take up such portions of pavement of sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its facilities. Excavation so made shall be refilled and surfacing thus disturbed shall be restored to as reasonable good condition as before.

4. Grantee shall permit Municipality to attach to its poles, its fire and/or police wires and apparatus incident thereto such attachments to be made under the direction and supervision of Grantee and so made and maintained as not to interfere with Grantee's use of said poles.

7-5-3 USE OF PUBLIC WAYS OR GROUNDS. Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the Municipality vehicles or structures, other than parade components, of such height or size as to interfere with its poles and/or wires erected hereunder and shall temporarily remove or adjust the same to permit such passage provided:

1. Written notice thereof shall be served upon Grantee's agent or manager at Grinnel, Iowa, not less than forty-eight (48) hours in advance of the time set for the proposed passage;
2. Grantee to be paid in advance the actual cost of such accommodation.

7-5-4 RESPONSIBILITY FOR CLAIMS AND ACTIONS. Grantee shall indemnify Municipality against loss from claims or causes of action arising out of its construction, reconstruction, maintenance or operation of the installation, herein authorized.

7-5-5 UNLAWFUL TO INJURE GRANTEE'S PROPERTY. It shall be unlawful for any person to injure, destroy or deface any property of Grantee lawfully installed and maintained hereunder or to post bills or signs thereon. A violation of this section shall constitute a misdemeanor and be punishable by a fine of not more than one hundred (100) dollars.

(Ord. 1-17, passed October 3, 2017)

7-5-6 REPEAL OF ORDINANCE. Ordinances or parts of ordinances in conflict herewith are hereby repealed.

7-5-7 SEVERABILITY. A determination that any part of this ordinance is invalid shall not affect remaining portions or provisions hereof.

7-5-8 COST OF PUBLICATION AND ELECTION. Grantee shall, upon demand, pay the costs of publishing this ordinance and of conducting the election thereon required by law.

7-5-9 ACCEPTANCE AND ELECTION. This ordinance shall become effective upon Grantee's written acceptance thereof filed with the Town Clerk within sixty (60) days after its approval by a majority of the legal electors of the Municipality voting thereon.

(Passed and adopted by the City Council of the City of New Vienna, Iowa, this 17th day of May, 1972.)



**IOWA TELECOM**  
115 S. Second Avenue West  
Newton, Iowa 50208  
(515) 787-2000  
Fax (515) 787-2001

December 29, 1999

Ms. Jane Niehaus  
City Clerk  
City of New Vienna  
PO Box 9  
New Vienna, IA 52065-0009

Dear Ms. Niehaus:

**We have some good news for you:**

**IOWA TELECOM HAS PURCHASED THE GTE PROPERTIES IN IOWA!**

Headquartered in Newton, IOWA TELECOM is a full-service communications provider, offering state-of-the-art products and services.

As an Iowa-based company, we are totally aware that our growth and success depend directly on the type of service we will provide the city of New Vienna and the other 300 Iowa communities where we will operate. We are committed to better customer service, faster response time and improved products and services. Our goal is to serve you and the other citizens of New Vienna as you would expect to be served by fellow Iowans.

Community relations is also a *priority* at IOWA TELECOM. We will make a community contact in early 2000 to tell you more about our company and learn more about your needs in New Vienna. Our Community Relations Manager, Danny Carroll, will be calling you soon to determine if you should be his contact in New Vienna and to schedule a visit. If you have any immediate concerns or questions, feel free to call Danny at 515-787-2026.

We plan on beginning service in the Spring of 2000 and look forward to a long and beneficial relationship with our New Vienna customers.

Sincerely,

Alan Wells  
President

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 6 RESERVED**



## TITLE VII SPECIAL ORDINANCES

### CHAPTER 7 ANNEXED LAND

7-7-1 Annexation – 1968  
7-7-2 Annexation - 1970

7-7-3 Annexation - 1999

7-7-1 ANNEXATION - 1968. Be it ordained by the Mayor and Town Council of the Town of New Vienna, Dubuque County, Iowa that the territory limits of the Town of New Vienna, Iowa, be and they are hereby extended to embrace within the following described real estate, to-wit:

1. South 742.5 ft. of Lot 1 of 1 of 1 of 2 of 1 SE 1/4 NE 1/4 Sec. 6,
2. Lot 1 of 1 of West Half NE 1/4 SE 1/4 Sec. 6,
3. Lot 1 of 2 of 1 of W 1/4 NE 1/4 SE 1/4 Sec. 6,
4. Lot 1 of 1 of 1 of 1 of 2 W 1/4 NE 1/4 SE 1/4 Sec. 6,
5. Lot 1 NW 1/4 SE 1/4 SE 1/4 sec. 6,
6. SW 1/4 SE 1/4 SE 1/4 Sec. 6,
7. Lot 2 of 1 of 1 of 2 of 1 SE 1/4 NE 1/4 Sec. 6,
8. NW 1/4 NE 1/4 NE 1/4 SE 1/4 except East 30 feet of Sec. 6,
9. East 30 feet of NW 1/4 NE 1/4 NE 1/4 SE 1/4 Sec. 6; N 1/2 of Lot 1 NW 1/4 SW 1/4 Sec. 5,
10. Lot 1 of 1 of 1 of 2 of 2 of 1 SE 1/4 NE 1/4 Sec. 6,
11. N 1/2 of Lot 1 of 1 of 1 SE 1/4 NE 1/4 Sec. 6,
12. South half of Lot 1 of 1 of 1 SE 1/4 NE 1/4 Sec. 6,
13. Lot 2 of 1 of 1 of 2 of 2 of 1 SE 1/4 NE 1/4 Sec. 6,
14. West 56 feet of Lot 2 of 1 of 1 SE 1/4 NE 1/4 Sec. 6,
15. Lot 2 of 1 of SE 1/4 NE 1/4 Sec. 6, except the West 56 feet thereof.
16. Lot 1 of 2 of 1 of 2 of 2 of 1 SE 1/4 NE 1/4 Sec. 6,
17. Lot 2 of 2 of 1 of 2 of 2 of 1 SE 1/4 NE 1/4 Sec. 6,

18. Lot 2 of 2 of 2 of Lot 1 of SE 1/4 NE 1/4 Sec. 6,
19. Cemetery
20. North 49 feet of Lot 2 of 2 of 2 of 1 W 1/2 NE 1/4 SE 1/4 Sec. 6,
21. South 11 feet of Lot 2 of 2 of 2 of 1 W 1/2 NE 1/4 SE 1/4 Sec. 6,
22. North 5 feet of Lot 1 of 1 of 2 of 2 of 1 of the West Half NE 1/4 SE 1/4 Sec. 6,
23. South 11 feet of Lot 1 of 1 of 2 of 2 of 1 West Half NE 1/4 SE. Sec. 6,
24. Lot 2 of 1 of 2 of 2 of 1 West Half NE 1/4 SE 1/4 Sec. 6,
25. Lot 3 of 1 of the West Half NE 1/4 SE 1/4 Sec. 6,
26. Lot 2 of 2 of 1 of 1 of 1 of 2 West Half NE 1/4 SE 1/4 Sec. 6,
27. Lot 1 of 2 of 1 of 1 of 1 of 2 West Half NE 1/4 SE 1/4 Sec. 6,
28. Lot 2 of 1 of 1 of 2 West Half NE 1/4 SE 1/4 Sec. 6,
29. Lot 1 of 2 of 1 of 2 West Half NE 1/4 SE 1/4 Sec. 6,
30. Lot 2 of 2 of 1 of 2 West Half NE 1/4 SE 1/4 Sec. 6,
31. Lot 2 NW 1/4 SE 1/4 SE 1/4 Sec. 6,
32. South Half SE 1/2 SE 1/4 SE 1/4 Sec. 6,
33. Lot 1 of 1 of the South 5 acres of Lot 7 of the South Half SW 1/4 Sec. 5,
34. Lot 2
35. Lot 1 of 2 of 1
36. Lot 2 of 2 of 1
37. Lot 1 of 2 of 2 of 8 of the South Half SW 1/4 Sec. 5,
38. Lot 2 of 2 of 2 of 8 of the South Half SW 1/4 Sec. 5,
39. Lot 1 of 2 of 8 South Half SW 1/4 Sec. 5,
40. Lot 1 of 8 of the South Half SW 1/4 Sec. 5,

41. West 1/3 of Lots 1, 2, 3, 4, 5, 6, 7, 8 in Fangman's Sub.,
42. East 29'2" of Lot 5, and all of Lots 6, 7, 8, 9 and the East 35 feet of Naber's Sub.,
43. Lot 2 of 3 SE 1/4 SW 1/4 Sec. 5,
44. Lot 2 of 1 of Lots 1 and 2 of S 1/4 SW 1/4 Sec. 5,
45. West 286 feet of Lot 1 of 1 of Sub. of Lots 1 and 2 S 1/4 SW 1/4 Sec. 5,
46. Lot 1 of 3 of South Half SW 1/4 Sec. 5,
47. West 200 feet of Lot 5 of Sub. of Lots 1 and 2 South Half SW 1/4 Sec. 5,
48. East Half Lot 6 NW 1/4 SW 1/4 Sec. 5,
49. Lot NE 1/4 SW 1/4 Sec. 5,
50. Lot 4 of 5 NW 1/4 SW 1/4 Sec. 5,
51. West 286 feet of Lot 2 NE 1/4 SW 1/4 Sec. 5,
52. West 286 feet of Lot 1 of 1 of NE 1/4 SE 1/4 Sec. 5,
54. Lot 2 of 1 NE 1/4 SW 1/4 Sec. 5,
56. South 742.5 feet SW 1/4 NW 1/4 Sec. 5,
57. Lot 1 of 3 NW 1/4 SW 1/4 Sec. 5,
58. Lot 2 of 1 of 2 NW 1/4 SW 1/4 Sec. 5,
59. North 120 feet of Lot 1 of 2 of 2 NW 1/4 SW 1/4 Sec. 5,
60. South 70 feet of the North 190 feet of Lot 1 of 2 of 2 NW 1/4 SW 1/4 Sec. 5,
61. South 74 feet of Lot 1 of 2 of 2 NW 1/4 SW 1/4 Sec. 5,
62. Lot 1 of 1 of 1 of 2 NW 1/4 SW 1/4 Sec. 5,
63. Lot 1 of Lot 5 of NW 1/4 SW 1/4 Sec. 5,
64. Lot 2 of 3 NW 1/4 SW 1/4 Sec. 5,
65. Lot 2 of 5 NW 1/4 SW 1/4 Sec. 5,
66. Lot 2 of 3 of 5 NW 1/4 SW 1/4 Sec. 5,

67. Lot 1 of 3 of 5 NW 1/4 SW 1/4 Sec. 5,

70. Lot 2 of 2 of W 1/2 NE 1/4 SE 1/4 Sec. 6, Twp. 89,

71. West 286 feet of Lot 4 NE 1/4 SW 1/4 Sec. 5; West 286 feet of the South 742.5 feet SE 1/4 NW 1/4 Sec. 5,

all located in Township 89 North, Range 2, West of the 5th P.M., Dubuque County, Iowa.

That the above described real estate includes all of the real estate as included in the aforesaid application and as shown by the Plat attached to said application.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed in so far as the conflicting portions thereof are concerned.

This Ordinance shall be posted according to the law of the State of Iowa, and shall be in full force and effect upon its passage and posting as provided by law.

Passed, adopted, and approved this 26th day of June, 1968.

7-7-2 ANNEXATION - 1970. Be it ordained by the Mayor and Town Council of the Town of New Vienna, Iowa, Dubuque, County, that the territory limits of the Town of New Vienna, Iowa, be and they are hereby extended to embrace within the following described real estate, to-wit:

1. Lots 1, 2, 3, 4, 6, 7, and 8 of Lot 1 of Lot 1 of Lot 1 of Lot 4 of Lot 1 of Lot 2 of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 8, Township 89 North, Range 2, West of the 5th P.M. (title in Gerald F. Westhoff).

2. Lot 5 of Lot 1 of Lot 1 of Lot 1 of Lot 4 of Lot 1 of Lot 2 of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 8, Township 89 North, Range 2, West of the 5th P.M. (Title in Hubert Westhoff).

3. Lots 2 and 3 of Lot 1 of Lot 1 of Lot 4 of Lot 1 of Lot 2; Lot 2 of Lot 1 of Lot 4 of Lot 1 of Lot 2; Lot 2 of Lot 1 of Lot 2 of Lot 2; Lots 2 and 3 of Lot 2 of Lot 2, all of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 8, Township 89 North, Range 2, West of the 5th P.M., (title in Lawrence and Laurine Krapfl).

That the above described real estate includes all of the real estate as included in the aforesaid application and as shown by the plat attached to said application.

All ordinances and parts of ordinances in conflict herewith are hereby repealed in so far as the conflicting portions thereof are concerned.

This ordinance shall be posted according to the law of the State of Iowa, and shall be in full force and affect upon its passage and posting as approved by law.

(Passed, adopted, and approve this 23rd day of March, 1970.)

7-7-3 ANNEXATION - 1999. Be it ordained by the Mayor and Town Council of the Town of New Vienna, Iowa, Dubuque, County, that the territory limits of the Town of New Vienna, Iowa, be and they are hereby extended to embrace within the following described real estate, to-wit:

1. Lots 1 through 12 of Sunrise Subdivision, formerly Lots 1 through 8 of Fangmann's Subdivision.

That the above described real estate includes all of the real estate as included in the aforesaid application and as shown by the plat attached to said application.

All ordinances and parts of ordinances in conflict herewith are hereby repealed in so far as the conflicting portions thereof are concerned.

This ordinance shall be posted according to the law of the State of Iowa, and shall be in full force and affect upon its passage and posting as approved by law.

(Resolution 6-99 Passed April 5, 1999)

RESOLUTION NO. 6-99

WHEREAS, Spruce Wood Development Ltd. have made application for VOLUNTARY ANNEXATION to the City of New Vienna, Iowa, of property owned by Jesse Steger and contiguous to, but not in the City of New Vienna, Iowa, as shown in Exhibit A, and legally described as follows:

\* Lots 1 thru 12 of Sunrise Subdivision, formerly  
Lots 1 thru 8 of Fangmann's Subdivision

WHEREAS, the approval of said application(s) for VOLUNTARY ANNEXATION is in the best interest of the City of New Vienna, Iowa, and should be approved; therefore,

BE IT RESOLVED by the City Council of the City of New Vienna, Iowa, that the attached Application(s) for Voluntary Annexation to the City of New Vienna, Iowa, for property(s) described above and owned by Spruce Wood Development Ltd. is hereby approved.

BE IT FURTHER RESOLVED that the City Clerk shall file a copy of this Resolution, including legal description and map (Exhibit A), with the Iowa Department of Transportation, the Dubuque County Board of Supervisors, the Iowa Secretary of State, the East Central Intergovernmental Association, and each affected public utility, and shall record a copy of the legal description, map and resolution with the County Recorder.

PASSED, APPROVED AND ADOPTED this 5th day of April, 1999.

Don Beckwith

Mayor

ATTEST:

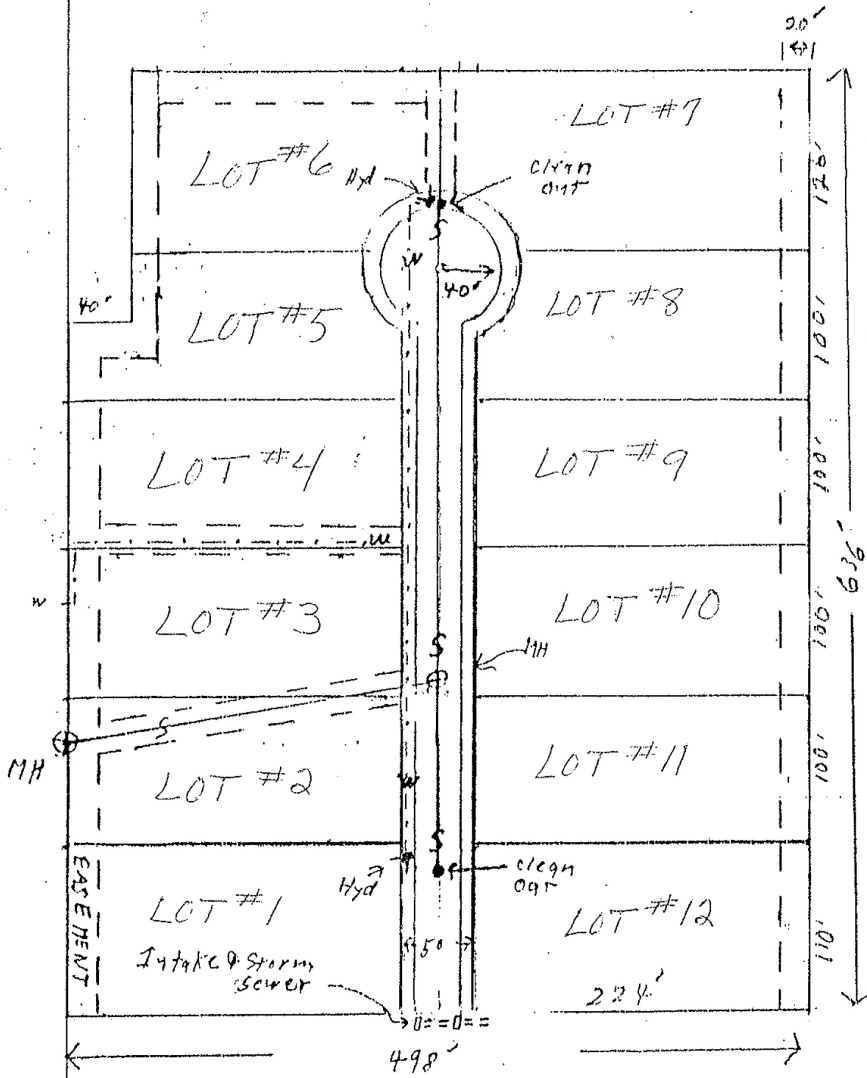
Jane Niehaus

City Clerk

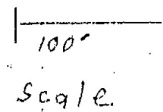
Jane Niehaus  
P.O. Box 19  
New Vienna, Iowa 52065

319-921-2295

SUNRISE SUBDIVISION N 7



Spruce Wood Development  
Fargnagn Subdivision



## TITLE VII SPECIAL ORDINANCES

### CHAPTER 8 EXTREME FIGHTING

7-8-1 Purpose  
7-8-2 Definitions

7-8-2 Civil Penalty

7-8-1 PURPOSE. The City of New Vienna finds that Extreme Fighting Contests are prohibited.

1. No person shall engage in, participate in, promote, or facilitate extreme fighting contest within the city. To "facilitate" shall include making a room, arena, or any other facility or space available where participants engage in extreme fighting that may be witnessed by other members of the public, whether a fee to attend or view is paid or not.

7-8-2 DEFINITIONS. As used in this section:

1. "Extreme fighting contest" includes any amateur match, competition, or exhibition that combines elements of boxing, wrestling and martial arts in which a person delivers, or is not forbidden by the rules of such contest from delivering, kicks, punches or blows of any kind to the body of an opponent, for which no rules have been established and enforced that:

Ensure participants will be matched with others of comparable skill, experience and weight; and

Impose limitations on the use of blows or maneuvers that may cause serious physical injury.

Extreme fighting contests may also be described as "no-holds-barred," "no rules," "ultimate fighting," "extreme fighting" or "shoot boxing."

2. An "amateur match, competition or exhibition" is one where one or more of the participants is not licensed as a professional boxer or wrestler by the State of Iowa.

3. "Serious physical injury" has the meaning given in ORS 3-1-2; Code of Iowa, Sec. 723.4(1)

4. The term "extreme fighting contest" shall specifically exclude boxing, wrestling or martial arts provided that such activities are conducted before a licensed official or in accordance with official rules adopted by a nationally recognized organization.

7-8-3 CIVIL PENALTY. Any violation of this section shall be considered a simple misdemeanor punishable by a five hundred dollar (\$500.00) fine or a municipal infraction punishable by a civil penalty of seven hundred fifty dollars (\$750.00) for first offense and one thousand dollars (\$1,000.00) for second and subsequent offenses.

(Amended during 2009 codification)

(Ord. 1-17, passed October 3, 2017)



**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 9 SKATEBOARDS, SKOOTERS AND ROLLER SKATES**

7-9-1	Definitions	7-9-6	Clinging to Vehicles
7-9-2	Scope of Regulation	7-9-7	Prohibited Areas
7-9-3	Traffic Code Applies	7-9-8	Violation Penalty
7-9-4	Traffic Control Devices	7-9-9	Special Penalty
7-9-5	Emerging from Alley or Driveway		

7-9-1 DEFINITIONS.

1. Skateboard means a footboard mounted on wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.

2. Roller skate means a pair of shoes, mounted on wheels and is most often propelled by the user in an upright, standing position or kneeling. For the purposes of this section roller blades or in-line skates are considered to be roller skates.

3. Scooter means a device having two wheels and a low footboard, which is steered by a handlebar and is propelled by motor or by pushing one foot against the ground while resting the other on the footboard. This device is most often propelled by the user in an upright position.

4. Negligent manner means the operation of skateboards, coaster scooters, and roller skates on any roadway, sidewalk or publicly owned parking lot, in such a manner as to endanger or be likely to endanger and person or property. Examples of operating in a negligent manner include but are not limited to, failure to obey all traffic control devices, failure to yield right-of-way to pedestrians and/or vehicular traffic.

5. Operator means a person who utilizes, controls, rides, or in any manner propels a skateboard, scooter, or roller skates.

6. Prohibited Downtown Business District means: Columbus between Harrison Street and Jefferson Street; Iowa Street between New Vienna Road and Main Street; Jefferson Street between Columbus Street and the Maquoketa River; Main Street between Fork Street and Iowa Street; New Vienna Road between Columbus Street and Iowa Street. (Ord. 4-2, passed November 4, 2002) Sec. 3-321.1.

The exception to this prohibited area is the area immediately in front of residential houses.

7-9-2 SCOPE OF REGULATION. These regulations shall apply whenever skateboards and roller skates are operated upon any public street, public property or upon any public path set aside for the exclusive use of skateboards, scooters, and roller skates, subject to those exceptions stated herein.

7-9-3 TRAFFIC CODE APPLIES. Any person riding a skateboard, scooter, or roller skates 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 laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts a skateboard, scooter, or roller skates, the person shall be subject to all regulations applicable to pedestrians.

7-9-4 TRAFFIC CONTROL DEVICES. Any person operating a skateboard, scooter, and roller skates shall obey the instructions of official traffic control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a Police Officer.

7-9-5 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a skateboard, scooter, and roller skates 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 to the right-of-way to all vehicles approaching on said roadway.

7-9-6 CLINGING TO VEHICLES. It is unlawful for any person traveling upon any skateboard, scooter, or roller skates to cling to or attach themselves or their device to any moving vehicle upon any roadway.

7-9-7 PROHIBITED AREAS. It shall be unlawful for any person to:

1. Operate or ride any skateboards, coaster scooters, and roller skates upon any streets, alleys, sidewalks, or publicly owned parking lot within the boundaries of the prohibited downtown business district.

2. The City Council is hereby authorized to designate and post signs in areas where bicycles are prohibited on sidewalks. No person shall ride a bicycle in such area.

7-9-8 VIOLATION PENALTY. Any person violating any provision of this ordinance shall be guilty of a municipal infraction.

7-9-9 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for skateboards, coaster scooters, and roller skates or standard penalty provided for violations of the Code or Ordinances, allow the person's skateboards, coaster scooters, and roller skates to be impounded by the City New Vienna for not less than (5) five days for the first offense, (10) ten days for a second offense and (30) thirty days for a third and subsequent offense.

(Amended during 2009 Codification)

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 10 ADULT ORIENTED ESTABLISHMENTS**

7-10-1	Purpose	7-10-6	Minors
7-10-2	Definitions	7-10-7	Hours of Operation
7-10-3	Regulations Governing the Location and Spatial Separation of Adult-Oriented Establishments	7-10-8	Severability Clause
7-10-4	Development Design Standards	7-10-9	Repeal of Conflicting Ordinances
7-10-5	Responsibilities of the Operator	7-10-10	Effective Date

7-10-1 **PURPOSE.** The City of New Vienna finds:

1. Adult-oriented establishments require special consideration in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of New Vienna;

2. Adult-oriented establishments, because of their very nature, have a detrimental effect on both existing establishments around them and surrounding residential areas adjacent to them;

3. The concern over sexually-transmitted diseases is a legitimate health concern of the City that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the community;

4. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent area;

5. The City of New Vienna wants to -minimize these adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;

6. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments.

7-10-2 **DEFINITIONS.** For purposes of this ordinance, the following terms are defined:

1. "Adult Bookstore" - an establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or

relating to specified anatomical areas or specified sexual activities as defined below.

2. "Adult Entertainment" - any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

3. "Adult Motion Picture Theater" - an enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.

4. "Adult-Oriented Establishment" - any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, where such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, or any other term of like import.

5. "Operators" - any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

6. "Specified Anatomical Areas" - less than completely and opaquely covered human genitals, buttocks, female breasts below the areola; or, male genitalia.

7. "Specified Sexual Activities" - simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of sexual activity, sodomy, or sado-masochism; or (c) fondling or erotic touching of human genitals, buttocks, or female breasts.

7-10-3 REGULATIONS GOVERNING THE LOCATION AND SPATIAL SEPARATION OF ADULT-ORIENTED ESTABLISHMENTS. In addition to the provisions of Title VI, Chapter 10, of the New Vienna Code of Ordinances, adult-oriented establishments, as herein defined, are declared to be regulated by the following rules:

1. Prohibited Locations. No person, whether as principal or agent, clerk or employee, either alone or for any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any AdultOriented Establishments in the following locations:

a. Within two thousand (2,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.

b. Within two thousand (2,000) feet of any public or private school offering general education for students between the years of Kindergarten and Twelfth grade.

- c. Within two thousand (2,000) feet of any daycare home or daycare business.
- d. Within two thousand (2,000) feet of any public park or playground.

For purposes of this section, bike paths, trails, waterways, and boat launches shall not be deemed a public park.

- e. Within two thousand (2,000) feet of any other adult entertainment business.
- f. Within two thousand (2,000) feet of any existing establishment selling alcoholic beverages for consumption on premises.

2. Measurement of Distance. The distance between any two adult-oriented establishments shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any adult-oriented establishment and any religious institution, school, daycare business, public park or playground, or establishment selling alcoholic beverages for consumption on premises shall be measured in a straight line, without regard for' intervening structures, from the closest property line of each.

#### 7-10-4 DEVELOPMENT DESIGN STANDARDS.

- 1. Exterior. It shall be unlawful for an owner of an adult-oriented establishment:

- a. to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.

- b. to allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.

- c. to allow exterior portions of the establishment to be painted other than a single color.

2. Signage. The display surfaces of the sign shall not contain any flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner depicting specified anatomical areas or specified sexual activities, except for the name of the enterprise.

7-10-5 RESPONSIBILITIES OF THE OPERATOR. Every act or omission by an employee constituting ~ violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner' as if the operator committed the act or caused the omission.

7-10-6 MINORS. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an

attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid drivers license issued by a state reflecting that person's age.

7-10-7 HOURS OF OPERATION. An adult-oriented establishment may remain open for business no longer than the hours from between 12:00 PM (Noon) to 2:00 AM, seven days a week.

7-10-8 SEVERABILITY CLAUSE. Should any section or provision of this ordinance be declared by the court to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part declared to be invalid or unconstitutional.

7-10-9 REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict with this ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

7-10-10 EFFECTIVE DATE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

(January 4, 2010)