

CODE OF ORDINANCES
OF THE
CITY OF
MAXWELL, IOWA

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CODE OF ORDINANCES CITY OF MAXWELL, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title

1.02 Definitions

1.03 City Powers

1.04 Indemnity

1.05 Personal Injuries

1.06 Rules of Construction

1.07 Extension of Authority

1.08 Amendments

1.09 Catchlines and Notes

1.10 Altering Code

1.11 Severability

1.12 Warrants

1.13 General Standards for Action

1.14 Standard Penalty

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

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

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"Ordinances" means the ordinances of the City of Maxwell, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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

and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

18. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$65.00 but not to exceed \$625.00.[†]

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

[The next page is 9]

[†] **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 4.

CHAPTER 2

CHARTER

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

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR’S NOTE:** Ordinance No. 85 adopting a charter for the City was passed and approved by the Council on July 7, 1975. Said ordinance was amended pursuant to an election held on November 3, 1981.

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CHAPTER 3

BOUNDARIES

3.01 CORPORATE LIMITS. The incorporated area of the City includes land within Township Eighty-Two (82) North, Range Twenty-Two (22) West of the 5th P.M., described as follows:

The South Half (S^{1/2}) of Section Twenty-Two (22) lying west of the centerline of County Road 660th Avenue; and

The North Half (N^{1/2}) of Section Twenty-Seven (27); and

The North Half (N^{1/2}) of the North Half (N^{1/2}) of the Southwest Quarter (SW^{1/4}) of Section Twenty-Seven (27); and

The land within Section Twenty-Six (26), lying west of the centerline of County Road 663rd Avenue, south of the centerline of Highway 210 and north of the former north right-of-way line of the Chicago, Milwaukee and St. Paul Railroad right-of-way, all of which is more particularly described as follows:

Beginning at the northwest corner of the Northwest Quarter (NW^{1/4}) of Section Twenty-Six (26), then east along the north section line to the northeast corner of the Northwest Quarter (NW^{1/4}) of the Northwest Quarter (NW^{1/4}) of Section Twenty-Six (26);

Then south along the centerline of County Road 663rd Avenue to a point on the northerly line of the former Chicago, Milwaukee and St. Paul Railroad right-of-way;

Then southwesterly along said northerly line of the former Chicago, Milwaukee and St. Paul Railroad right-of-way to a point on the west line of Section Twenty-Six (26);

Then north along the west line of the section to the northwest corner of the Northwest Quarter (NW^{1/4}) of Section Twenty-Six (26), to the point of beginning.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.06 ALTERNATIVE PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal

penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

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

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

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

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

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

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

A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for

the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(*Code of Iowa, Sec. 384.15A*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.2[384, 388])
2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.3[384, 388])
3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.
(IAC, 545-2.4[384, 388])
4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.
(IAC, 545-2.4[384, 388])

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

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

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

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

(Code of Iowa, Sec. 384.22)

CHAPTER 8
URBAN RENEWAL

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
177	December 29, 1998		
178	December 29, 1998		
181	March 15, 1999		
182	March 15, 1999		

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CHAPTER 9
URBAN REVITALIZATION

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
179	December 29, 1998		
180	December 29, 1998		
297	March 12, 2018		

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Library Board of Trustees
3. Parks and Open Spaces Board

15.04 COMPENSATION. The salary of the Mayor is \$2,000.00 per year.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. Planning and Zoning Commission
4. Zoning Board of Adjustment
5. Zoning Administrator
6. Public Works Supervisor
7. Cemetery Sexton
8. Fire Chief
9. EMS Chief and Officers

17.06 COMPENSATION. The salary of each Council member is \$25.00 for each meeting of the Council attended.

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation	18.08 Records
18.02 Powers and Duties: General	18.09 Attendance at Meetings
18.03 Publication of Minutes	18.10 Licenses and Permits
18.04 Recording Measures	18.11 Notification of Appointments
18.05 Other Publications	18.12 Elections
18.06 Authentication	18.13 City Seal
18.07 Certification	

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

City Hall
Post Office
Logsdon Grocery Store

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than 10 days after the effective date of the ordinance or amendment. Unauthorized removal of the posted ordinance or amendment prior to the completion of the ten days shall not affect the validity of said ordinance or amendment. The Clerk shall include the effective date on the official copy of every ordinance or amendment.

(Code of Iowa, Sec. 380.6)

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

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

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

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

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.

4. Hiring of Personnel. To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the Library Director, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.

6. Purchases. To select, or authorize the Library Director to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

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

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

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon

action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 23

ZONING BOARD OF ADJUSTMENT

23.01 Board of Adjustment Created
23.02 Meetings of the Board of Adjustment

23.03 Appeals
23.04 Jurisdiction and Powers of the Board

23.01 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby established, which shall consist of five members. The term of office of the members of the Board of Adjustment and the manner of their appointment shall be as provided by statute.

23.02 MEETINGS OF THE BOARD OF ADJUSTMENT. The meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson or, if absent, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Clerk's office and shall be a public record. The presence of three members shall be necessary to constitute a quorum.

23.03 APPEALS. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Council relative to zoning. Such appeal shall be taken within 20 days from the time of decision, by filing with the Clerk a notice of appeal specifying the grounds thereof. The Board shall fix a reasonable time for hearing on the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within reasonable time. At the hearing, any party may appear in person or by agent or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee set by Council resolution to the Clerk to be credited to the General Fund of the City.

23.04 JURISDICTION AND POWERS OF THE BOARD. The Board shall have the following powers and it shall be the duty of the Board:

1. To hear and decide appeals where it is alleged there is error in any order, requirements, decisions or determination made by the Council in the enforcement of the zoning ordinance.
2. To grant a variation in the regulations when a property owner can show that:
 - A. His or her property was acquired in good faith and that, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of the zoning ordinance would actually prohibit the use of said property in a manner reasonably similar to that of other property in the district; or
 - B. Under the evidence before the Board, the granting of such variation will alleviate a clearly demonstrable hardship; provided, however, all variations granted under this subsection shall be in harmony with the intended spirit and purpose of the zoning ordinance.

3. To permit the following exceptions to the district regulations set forth in the zoning ordinance, provided all exceptions shall, by their design, construction, and operation, adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property, shall not increase congestion in the public streets, shall not impair an adequate supply of light and air to adjacent property, and shall not diminish or impair established property values in surrounding areas:

A. The erection and use of a building or the use of a premises or variance of the height and area regulations in any location for a public service corporation, for public utility purposes, or for purposes of public communication.

B. The extension of a district where the boundary line of a district divides a lot in single ownership as shown of record or by existing contact of purchase. In no case shall such extension of the district boundary line exceed 40 feet in any direction.

4. To hear and approve, deny, or approve with conditions exceptions specifically permitted in Chapter 165, Zoning Regulations.

5. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Council or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. The action of the Board shall not become effective until:

A. After the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein has been recorded in the minutes.

B. After the first Council meeting following the decision of the Board, provided the Council does not pass a resolution requesting the Board to reconsider its action. Such resolution, if passed, shall set forth the full reason for the Council's request. Such Council resolution, if passed, shall set forth the full reason for the Council's request. The effective date of the Board's action shall be delayed for 30 days after the date of the Council's resolution requesting the Board reconsider its action. Upon being asked to reconsider its action, the Board may either uphold or overturn its previous decision; however, such action by the Board of Adjustment shall be final.

C. Any person aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. Costs shall not be allowed against the Board unless it appears to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

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CHAPTER 24

PUBLIC WORKS SUPERVISOR

24.01 Appointment and Compensation
24.02 Powers and Duties
24.03 Water Treatment
24.04 Sewer Treatment
24.05 Streets
24.06 Parks and Recreation

24.07 City Hall
24.08 Equipment
24.09 Animal Control
24.10 Administration
24.11 Acting Peace Officer

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

24.02 POWERS AND DUTIES. The Public Works Supervisor or, in the Supervisor's absence or inability to act, the Assistant Public Works Supervisor has the powers and duties as provided in this chapter, this Code of Ordinances, and the law.

24.03 WATER TREATMENT. The Public Works Supervisor shall have or obtain within one year State Certification for Water Treatment and Water Distribution, sample water on a daily basis, and submit to the State, maintain required records, back flush iron filter, flush hydrants, tap mains when required, turn water on/off at private residences, read water meters monthly, pump bulk water, maintain grounds around pump house and wells, and maintain the system as required (water main breaks, install and repair water meters, inspect water tower, inspect all new/repaired water connections at main before any backfill is done).

24.04 SEWER TREATMENT. The Public Works Supervisor shall have or obtain within one year State Certification, sample lagoons and submit to the State, maintain records, check lift station pumps every day, tap mains when required, maintain grounds at plant, maintain system as necessary, and inspect all new/repaired sewer connections at main before any backfill is done.

24.05 STREETS. The Public Works Supervisor shall fill chuck holes (cold mix, gravel), plow snow, spread sand, load snow on Main Street (Highway No. 210), mow ditches, trim low hanging branches, remove downed limbs and trees from City property, install and maintain street signs, clean culverts and intakes, etc., inspect backfill of street excavations, paint parking lines, stop bars, crosswalks, and replace decorative light bulbs on Main Street as needed.

24.06 PARKS AND RECREATION. The Public Works Supervisor shall clean restrooms, shelter, and grounds as required, maintain all park buildings, playground equipment, and picnic tables, store tables for winter, and other jobs as required.

24.07 CITY HALL. The Public Works Supervisor shall do general maintenance, painting, minor carpentry, plumbing, etc.

24.08 EQUIPMENT. The Public Works Supervisor shall be responsible for tool and supply inventory, routine mechanical maintenance on pickups, dump trucks, snow plow, tractors, mowers, and other equipment deemed necessary. Must obtain and maintain a valid CDL.

24.09 ANIMAL CONTROL. The Public Works Supervisor shall respond to citizens' complaints, pick up and detain stray animals until picked up by the County, notify Sheriff's office and assist with disposal of any diseased animal.

24.10 ADMINISTRATION. The Public Works Supervisor shall maintain daily time sheets, supervise part-time employees and contractors, and attend Council meetings as required.

24.11 ACTING PEACE OFFICER. The Public Works Supervisor shall act in the capacity of a peace officer to issue parking tickets, direct or regulate traffic, maintaining traffic control devices, and designating and maintaining crosswalks and pavement markings.

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CHAPTER 25

PARKS AND OPEN SPACES BOARD

25.01 Board Created
25.02 Members and Appointment
25.03 Term of Office and Vacancies
25.04 Compensation

25.05 Staff Services
25.06 Operation
25.07 Duties and Responsibilities

25.01 BOARD CREATED. A Parks and Open Spaces Board is hereby created and established.

25.02 MEMBERS AND APPOINTMENT. The Parks and Open Spaces Board consists of three members, who are citizens of the City and interested in serving in matters pertaining to parks, open space, and other land maintained by the City. The members are appointed by the Mayor, subject to approval of the Council. In addition, the Parks and Open Spaces Board shall have, as ex-officio members, two members of the Council appointed by the Mayor, as the Parks Committee. Members and ex-officio members may be removed in the same manner as they are appointed.

25.03 TERM OF OFFICE AND VACANCIES. Appointments to the Parks and Open Spaces Board shall be for a term of three years. Each term shall commence on July 1 and run through June 30 of the following year. The terms of the members shall be staggered so that an appointment shall be made every year. Vacancies in the Board shall be filled by appointment by the Mayor, with the approval of the Council, and the new members shall fill out the unexpired term for which the appointment is made.

25.04 COMPENSATION. All members of the Parks and Open Spaces Board shall serve without compensation, except for their actual expenses, which shall be subject to prior approval of the City Council, before expenses are incurred.

25.05 STAFF SERVICES. The Assistant City Clerk and Director of Public Works shall provide secretarial and other staff services to the Board.

25.06 OPERATION. The Parks and Open Spaces Board shall have the authority to choose its own officers, to adopt its own rules and regulations governing its operation, and to keep a record of its proceedings. Quorum for a meeting of the Parks and Open Spaces Board shall be a majority of its regular members.

25.07 DUTIES AND RESPONSIBILITIES. The following are the duties and responsibilities of the Parks and Open Spaces Board:

1. To advise the Mayor and City Council on the care, management, and control of all open space owned by the City including street and cemetery green space maintenance, all parks and grounds used for park purposes, all structures thereon, and all vehicles, tools and implements used in, upon, or about the parks and other land, whether now in existence or hereafter constructed, and whether owned or under the control of the City within or without the corporate limits of the City.

2. To advise the Mayor and Council on budget planning and requirements necessary to support park and open space services, improvements, and capital expenditures.
3. To advise the Mayor and Council concerning the acquisition of property within or without the corporate limits of the City for the use and purpose of public parks, the enlargement of existing parks or parkways, and to receive, in the name of the City, gifts, donations, and devises of land or other property for park purposes.
4. To advise the Mayor and Council concerning walks, drives, roads, bridges, trees, flowers, shrubs, drainage systems, and other improvements to, and adornments of, the parks, cemeteries, open spaces and other property owned by the City.
5. To advise the Mayor and Council concerning such buildings and other structures as may be necessary for the convenience and protection of the public and the proper use of parks.
6. To advise the Mayor and Council concerning the promotion of the health, safety, and enjoyment of the public in the parks, cemeteries, and open spaces owned by the City through the establishment of rules and regulations for the maintenance of order, safety, and decency in the parks, cemeteries and open spaces owned by the City, including the hours of opening and closing.
7. To make written reports to the Council of its activities from time to time as the Board deems advisable or upon Council request.
8. When requested by the Council, to consider, investigate, make findings on, report and make recommendations concerning, any special matter or question specified to the Board by the Council.

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

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

(Code of Iowa, 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose	35.09 Personnel Procedures and Standard Operating Guidelines
35.02 Organization	35.10 Constitution
35.03 Approved by Council	35.11 Accidental Injury Insurance
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35.07 Duties of Fire Chief	35.15 Authority to Cite Violations
35.08 Obedience to Fire Chief	35.16 Firefighters' Nonprofit Corporation

35.01 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency, as enumerated in the department's standard operating procedures. The name of the department shall be The Maxwell Community Fire Department.

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

35.06 FIRE CHIEF AND OFFICERS APPOINTED. The Fire Chief shall be appointed by the City Council with a majority vote and shall hold office until resigning or being removed from office by a majority vote of City Council. The Fire Chief shall at all times be subject to the orders and supervision of the City Council. Officers of the Fire Department shall be nominated by the Fire Department and approved by the City Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all powers of Fire Chief.

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

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

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

35.08 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief. In those cases where both the EMS Department and the Fire Department are responding to the same incident, the Fire Chief shall be in charge of the scene in all cases until the fire is extinguished or hazard has been contained.

35.09 PERSONNEL PROCEDURES AND STANDARD OPERATING GUIDELINES. The department shall adopt personnel procedures and standard operating guidelines as they deem calculated to accomplish the object contemplated, and such personnel procedures and standard operating guidelines and any change or amendment to such personnel procedures and standard operating guidelines before being effective, must be approved by the Council.

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

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

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

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

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

35.13 CALLS OUTSIDE CITY. The department shall answer calls to fires and other emergencies within the contracted service area whether inside or outside the City limits. The department may answer mutual aid calls outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.16 FIREFIGHTER'S NONPROFIT CORPORATION. The City recognizes the association and nonprofit corporation established by the firefighters personnel as a partner:

1. In promoting the welfare of firefighters.
2. In enhancing of fire prevention activities and response capabilities for the Fire Department.
3. In performing civic, social and fund raising activities as specified in the association and corporation articles of incorporation.

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted

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

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

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

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 37

EMERGENCY MEDICAL SERVICE

37.01 Establishment and Purpose
37.02 Organization
37.03 Approved by Council
37.04 Training
37.05 Compensation
37.06 EMS Chief and Officers
37.07 EMS Chief Duties
37.08 Obedience to EMS Chief

37.09 Personnel Procedures and Standard
Operating Guidelines
37.10 Accidental Injury Insurance
37.11 Liability Insurance
37.12 Calls Outside City
37.13 Mutual Aid
37.14 EMS Nonprofit Corporation

37.01 ESTABLISHMENT AND PURPOSE. A volunteer emergency medical service (EMS) department is hereby established to provide emergency medical services as enumerated in the department's standard operating procedures. The name of the department shall be The Maxwell Community EMS Department.

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

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

37.04 TRAINING. All members of the department shall meet the minimum training standards established by Department of Health Bureau of EMS and attend and actively participate in regular or special training drills or programs as directed by the EMS Chief.

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

37.06 EMS CHIEF AND OFFICERS. The EMS Chief shall be appointed by the City Council with a majority vote and shall hold office until resigning or being removed from office by a majority vote of City Council. The EMS Chief shall at all times be subject to the orders and supervision of the City Council. Officers of the EMS Department shall be nominated by the EMS Department and approved by the City Council. In case of absence of the EMS Chief, the officer next in rank shall be in charge and have and exercise all powers of EMS Chief.

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

1. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the EMS Department. The members of the EMS Department shall, at all times, be subject to the direction of the EMS Chief.
2. Property. Exercise and have full control over the disposition of all EMS apparatus, tools, equipment, and other property used by or belonging to the EMS Department.

3. Records. Cause to be kept records of the EMS Department including personnel; EMS equipment; the number of responses to calls for service, their cause, and location; and an analysis of the effectiveness of the response to the call for service.
4. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council.

37.08 OBEDIENCE TO EMS CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the EMS Chief. In those cases where both the EMS Department and the Fire Department are responding to the same incident, the EMS Chief shall be in charge of the scene when:

1. No fire needs extinguishing or no hazard needs containment, or
2. The fire has been extinguished or the hazard has been contained, but patient care is necessary.

37.09 PERSONNEL PROCEDURES AND STANDARD OPERATING GUIDELINES. The department shall adopt personnel procedures and standard operating guidelines as they deem calculated to accomplish the objective contemplated, and such personnel procedures and standard operating guidelines and any change or amendment to such personnel procedures and standard operating guidelines before being effective, must be approved by the Council.

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

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

37.12 CALLS OUTSIDE CITY. The department shall answer calls to emergencies within the contracted service area whether inside or outside the City limits. The department may answer mutual aid calls outside the City limits if the EMS Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

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

37.14 EMS NONPROFIT CORPORATION. The City recognizes the association and nonprofit corporation established by the EMS emergency response personnel as a partner in:

1. Promoting the welfare of EMS emergency response personnel.
2. Enhancing of emergency medical activities and response capabilities for the EMS Department.

3. Performing civic, social and fund raising activities as specified in the association and corporation articles of incorporation.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

41.12 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB

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

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
 - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
 - (1) First-class consumer fireworks:
 - a. Aerial shell kits and reloadable tubes;
 - b. Chasers;
 - c. Helicopters and aerial spinners;
 - d. Firecrackers;
 - e. Mine and shell devices;
 - f. Missile-type rockets;
 - g. Roman candles;
 - h. Sky rockets and bottle rockets;
 - i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
 - (2) Second-class consumer fireworks:
 - a. Cone fountains;
 - b. Cylindrical fountains;
 - c. Flitter sparklers;
 - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
 - e. Ground spinners;
 - f. Illuminating torches;
 - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
 - h. Wheels;

i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

B. "Display fireworks" includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. "Display fireworks" does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.

C. "Novelties" includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

A. Personal Injury: \$250,000.00 per person

B. Property Damage: \$50,000.00

C. Total Exposure: \$1,000,000.00

3. Consumer Fireworks.

A. It is unlawful for any person to use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.

B. It is unlawful for any person to use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:

(1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.

(2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.

(3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

C. It is unlawful for any person to use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.

41.15 DRUG PARAPHERNALIA.*(Code of Iowa, Sec. 124.414)*

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

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

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

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

41.16 FALSE FIRE ALARMS AND FEES FOR EXCESSIVE FIRE ALARMS.

1. Purpose. It is hereby declared that the occurrence of false alarms constitutes both a nuisance and a hazard to life and property. It is the purpose of this section to maintain a state of readiness to respond to legitimate public safety calls from the general public; to protect the general public traveling streets; and to protect the personnel of the Maxwell Fire Department, from the dangers created when responding to erroneous, false and mistaken response calls from security, fire or other specialized electronic or mechanical alarm devices or alarm systems. Council finds it necessary to the health, safety, and welfare of citizens to enact the following provisions governing false alarms.

2. Definitions.

A. “Alarm company” means a business providing among its services alarm sales, installation, service, monitoring or billing alarm users or the service of receiving on a continuous basis, through trained employees, emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to dispatch.

B. “Alarm system” means any device used to detect fire, excessive heat, or smoke, which, when activated, causes notification to be made directly or indirectly to the Fire Department, or any such device or system designed primarily for the purpose of giving an audible or visual signal of fire excessive heat or smoke. An alarm system, for the purpose of this section, does not include an alarm installed on a motor vehicle.

C. “Alarm user” means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility who owns, leases, installs or contracts for or otherwise obtains an alarm system and thereafter contracts with or hires an alarm company to monitor and/or service the alarm device, or who owns or operates an alarm system.

D. “Annunciator” means that part of an alarm system which communicates the fact that the system has been triggered.

- E. “Arming station” means a device, also known as a control pad, control panel, or alarm panel that allows control of an alarm system.
- F. “Audible annunciator” means an annunciator, which gives an alarm by means of a bell, siren, buzzer or similar sound-producing device mounted at some location which, when activated, is clearly audible at a distance of 50 feet or more outside of any building in which it is mounted. Any non-monitored system with one or more audible annunciations shall constitute a local alarm system.
- G. “Building” means any multi-family dwelling, apartment, commercial business, school, church, religious facility, health care facility, or other structure or place within the response district.
- H. “Chief” means the Fire Chief or designated representative who is authorized by the Chief to exercise any power or duty conferred to the Chief.
- I. “Coordinator” means the individual designated to enforce the provisions of this section.
- J. “Department” means the Maxwell Fire Department.
- K. “Dispatch” means the Story County Communications Division of the Story County Sheriff’s Office.
- L. “Error or mistake” means incorrect, faulty or unintentional act by any person, firm, corporation, or other entity owning or operating any dwelling, building or place, or any action by an agent or employee of said person, firm, corporation, or by any other entity which results in the activation of an alarm system when no emergency exists. This includes testing an alarm system without first notifying dispatch.
- M. “False alarm” means an alarm signal causing a response by the Department when a situation requiring a response did not exist at or about the time of the response. The burden of proving that such an alarm signal was not a false alarm shall be on the alarm user.
- N. “Fire alarm” means an alarm signal intended to indicate a fire, smoke or intense heat.
- O. “Willful misuse” means any voluntary activation of an alarm system when no fire or other emergency exists or is in progress.
- P. “Local alarm system” means a non-monitored alarm system which when activated causes an audible and/or visual signaling device to be activated and which is intended to be heard and/or seen by others inside and/or outside of the protected premises.
- Q. “Malfunction” means any unintentional activation of an alarm system caused by an electronic or mechanical flaw in the design, installation, maintenance or operation of the system, except it is not to include any activation caused by a violent condition of nature or other extraordinary circumstance.
- R. “Monitoring” means the process by which an alarm company or its designated alarm answering service receives signals from an alarm system and relays an alarm response request to dispatch for the purpose of summoning fire personnel to the alarm site.

- S. “Response district” means any area within the corporate City limits, and the entirety of Indian Creek and Washington Townships, which are within the first due response assignment area of the department.
3. Willful Misuse. Any person who intentionally activates any false alarm shall be guilty of a simple misdemeanor, punishable as provided in this Code of Ordinances.
4. Grace Period after Installation of an Alarm System. Upon the installation date of a new or replacement alarm system, a grace period of 14 calendar days will be allowed for the alarm user to become familiar with the operations of the alarm system and to make corrections to the alarm system. Service charges for false alarm as stated in the excessive false alarm service charges section would be waived during the grace period, providing the number of false alarms during the grace period is not excessive. An excessive number of false alarms during the grace period are:
- A. Equal to three or more false alarms in one calendar day or 24-hour period.
- B. Equal to four or more false alarms in the first 14 calendar days since installation of the alarm system.
5. False Alarm Response.
- A. Fire Department. A false alarm for fire suppression or other firefighting incidents usually requires multiple firefighters from the department to respond in multiple and specialized firefighting equipment depending on the type of alarm.
- B. Extenuating Circumstances. The City, after review by the Chief with a report of the extenuating circumstances to the City Clerk, may waive the service charge for a false alarm resulting from extreme or severe weather conditions or other extenuating circumstances, as determined on a case-by-case review.
6. Excessive False Alarms; Service Charges.
- A. As a result of the department’s response to the activation of a building’s alarm system, the alarm user shall pay the City, within 20 calendar days of invoice, for any false alarm generated by the alarm user’s alarm system after the grace period, in accordance with the following schedule:
- (1) The first, second, and third false alarm during calendar year - \$ 0.00
 - (2) The fourth false alarm during calendar year - \$100.00
 - (3) The fifth false alarm during calendar year - \$200.00
 - (4) The sixth and subsequent false alarm during calendar year - \$400.00
 - (5) Late fee set by Council resolution for each false alarm invoice that is delinquent.
- B. The City may use all available legal remedies to collect delinquent service fees and late penalties.

7. Right to Appeal. An alarm user assessed a false alarm fee may appeal it in writing to the Council. The filing of an appeal with the Council stays the assessment of the false alarm fee until the Council makes a final decision.

A. The alarm user shall file a written appeal to the Council by setting forth the reasons for the appeal within 10 days after receipt of the false alarm fee notice. The Council will review relevant items, including conditions of nature, for the date and time of the occurrence of the false alarm but may uphold the appeal only if there was no false alarm or the false alarm was not contributed to by the acts or omissions of the alarm user and/or its family, pets, guests, employees and/or invitees.

B. The alarm company, or its designated alarm answering service, shall be assessed a fee of \$250.00 when an on-site employee of the alarm company, or its designated alarm answering service, directly caused the false alarm, or failed to contact the alarm company answering service and/or dispatch prior to the commencement of service work on the alarm system.

C. The alarm company, or its designated alarm answering service, shall be assessed a fee of \$250.00 if the alarm company, or its designated alarm answering service, reports an alarm signal to dispatch where no alarm or emergency exists in the building.

8. Notices.

A. Notice of billing from the City to any alarm user shall be deemed to have been given or rendered on the date such notice of billing is deposited in the U.S. mail, first class postage, addressed to the alarm user at the address shown on records of the City or the Story County Assessor.

B. Notice from the City to any alarm user shall be deemed to have been given or rendered five business calendar days after the date of such notice is deposited in the U.S. mail, first class postage, addressed to the alarm users at its address shown in the City or the Story County Assessor.

9. City Liability Limitations. Nothing in this section shall create or be construed to create a duty upon the City of Maxwell to respond to any alarm whether or not the alarm is false. An alarm, like any request for service, may be responded to within the resources of the City in light of other responses required at the time of the alarm.

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.10 – Injury to Books or Property
 - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.14 – Fires or Fuel on Sidewalks
 - C. Section 136.15 – Defacing
 - D. Section 136.16 – Debris on Sidewalks
 - E. Section 136.17 – Merchandise Display
 - F. Section 136.18 Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

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

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

(Code of Iowa, Sec. 123.47)

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.04 Persons Under 21 in Taverns

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

1. No person under the age of 18 years of age shall be on or remain in or upon any of the public streets, alleys, or public places in the City at night between the hours of 11:00 p.m. and 6:00 a.m. the following morning for all nights beginning on Sunday night through and including Thursday night, and between the hours of 12:00 midnight and 6:00 a.m. the following morning for Friday and Saturday nights, unless such person is accompanied by his or her parent, guardian, or some other adult having the legal custody of such person or the minor is legally emancipated from his or her parent or legal guardian and no longer lives with the parent or legal guardian, except in the case of a person under 18 years of age whose regular employment makes it necessary for said minor to be upon such public streets, alleys, or public places before or after the specified hours while going directly to work or returning home directly from work; provided, this exception shall not apply when the person under 18 years of age is playing, loafing, idling, or unnecessarily loitering in or upon such public streets, alleys, or public places.

2. Further exceptions for the person under the age of 18 years of age include when the person is traveling to or returning from a religious, political, or agricultural assembly, medical necessity, an emergency situation, or an extracurricular and approved school activity, provided that the person under 18 years of age is traveling a direct route to and from home and the activity. Persons under the age of 18 traveling interstate or intrastate in a motor vehicle with permission of their parents or legal guardians shall also be exempt from prosecution under this section.

3. Before taking any enforcement action pursuant to this section, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest pursuant to this section unless the police officer reasonably believes that an offense has occurred and that, based upon the circumstances, the offender does not meet any of the exceptions listed under this section.

4. A person under 18 years of age who is in violation of this section may be reunited with his or her parents or legal guardian, may be taken home by the peace officer, may be directed to travel immediately home, may be issued a criminal citation, or, at the peace officer's discretion, may be issued a municipal infraction citation. This shall not prevent a peace officer from making an immediate arrest in the event the underage person has committed another separate and distinct public offense for which an arrest would be appropriate.

5. No parent, legal guardian, or other adult person having the legal care and custody of any person under the age of 18 shall willfully allow, suffer, insufficiently control, or permit any such person under 18 years of age while in such adult person's legal care and custody to violate the provisions of this section. Adult offenders who violate this section are subject to a civil penalty as a municipal infraction.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 18 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under 18 years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.
(*Code of Iowa, Sec. 453A.2*)

46.03 CONTRIBUTING TO DELINQUENCY. It is unlawful for any person to encourage any child under 18 years of age to commit any act of delinquency.
(*Code of Iowa, Sec. 709A.1*)

46.04 PERSONS UNDER 21 IN TAVERNS. It is unlawful for any person under 21 years of age to enter, remain in, or frequent a business establishment holding a retail liquor license or beer or wine permit, unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. The provisions of this section do not apply to premises having a Class "C" beer permit.

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering

47.05 Camping
47.06 Shelter House Rules
47.07 Park Hours

47.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.
(Code of Iowa, Sec. 364.12)

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

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

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

47.05 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause. The City shall charge fees for camping and other special privileges as it deems appropriate and reasonable. The Council shall establish such fees from time to time by resolution. All persons who camp in any City park shall register their names, addresses, camper and motor vehicle license plate numbers, and camper description with the Clerk and pay the appropriate fee before setting up or using their camping unit.

47.06 SHELTER HOUSE RULES. The renting of the Shelter House in the City Park is the responsibility of the Clerk. It is the Clerk's duty to keep a record of the dates that the Shelter House is rented and to collect the rental fees. The following additional rules and regulations govern use of the Shelter House:

1. The person or party first requesting permission to rent the Shelter House shall have priority. The only exception to this provision is that the Shelter House shall be used for the "Old Settlers Picnic" on the date of this annual event.
2. The Shelter House shall be reserved for use during the Old Settlers Picnic at no charge to the Old Settlers Steering Committee. The Committee shall offer the Shelter House for use to the local churches on a rotating, alphabetical order basis. The church whose turn it is shall notify the Committee by June 1 of that particular year of the church's intention to have a lunch stand. In the event no church desires to use the Shelter House for a lunch stand, then the Committee in charge of the "Old Settlers Picnic" shall make whatever arrangements they desire. Other organizations in the vicinity of the City shall be given priority over individuals. The Committee shall report

to the City Clerk no later than July 1 who will be occupying the Shelter House during the Old Settlers Picnic.

3. The amount of rental to individuals and organizations other than the “Old Settlers Picnic” shall be established from time to time by resolution of the Council. A damage, cleaning, and key deposit of \$50.00 shall also be required. In the event individuals or organizations desire some special celebration, the rent will be determined and negotiated by the Park Committee of the Council and the rental shall be the same per front foot as it would be to any other concession.

4. The person or organization using the Shelter House is responsible for cleaning up the premises and restoring it to the same clean and orderly condition it was in before the said person or organization rented the same.

5. There shall be no illegal activities carried on in the Shelter House that in any way violates this Code of Ordinances or State or Federal laws.

6. The Shelter House shall be kept locked at all times except when in use or while being repaired or cleaned.

7. The Clerk is in charge of the key to be used by renters.

8. When a reservation is made in advance, the rent shall be paid at the time of the reservation, and if notice or cancellation is not given two weeks in advance of the reservation, the rent shall be forfeited and the person paying said rent shall not be entitled to any refund. However, if notice is given at least two weeks prior to the reservation date, the rent shall then be refunded.

47.07 PARKS HOURS. No person, except registered campers, shall enter or remain within any park from sunset to sunrise except during officially sanctioned events authorized by the City.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

this section, grasses or weeds in excess of eight inches in length constitutes a health, safety or fire hazard.

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**

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

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

13. Accumulation of Junk. The accumulation of junk, refuse, trash, paper, cardboard, building materials, scrap lumber, inoperable or currently unlicensed vehicles or trailers; unused vehicle or machine parts or components; unused or unusable equipment, fixtures or appliances; unsightly or broken furniture, bicycles or toys in the yard area; and any and all other similar items to the extent that the overall appearance is unreasonably offensive to the senses of the average, reasonable citizen or to the extent that the overall appearance of the premises may tend to adversely impact the economic fair market value of other properties in the immediate vicinity. **(See also Chapter 51)**

14. Failure to Maintain Structures. Failure to properly maintain one or more structures on the premises to the extent that the structures deteriorate to a sub-standard state of repair as evidenced by one or more of the following: broken or rotted siding, defective or missing shingles, broken, cracked or missing windows or doors or panes of glass in the windows or doors; dilapidated structural members, foundation or chimney components; siding that is in serious need of re-painting to the extent that the lack of paint is substantial, immediately noticeable and renders the structure unsightly and constitutes an eyesore; all of which, taken together as a whole, renders the structure or structures unreasonably offensive to the senses of the average, reasonable citizen or to the extent that the overall appearance of the structures may tend to adversely impact the economic fair market value of other properties in the immediate vicinity. A failure to complete an addition or remodeling project in a reasonable time and as limited by the applicable building permit or other limitations of this Code, which failure to complete renders the premises unsightly and offensive to the senses is also a violation of this subsection.

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**
5. Housing Standards **(See Chapter 147)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the

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

property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Pets	55.13 At Large: Impoundment
55.05 Poultry, Livestock and Bees	55.14 Disposition of Animals
55.06 Number of Pets Allowed	55.15 Impounding Costs
55.07 Acts Prohibited	55.16 Unlawful Removal
55.08 Damage or Interference	55.17 Pet Awards Prohibited
55.09 Annoyance or Disturbance	

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "Livestock" means an animal belonging to the bovine, camelid, caprine, equine, ovine or porcine species. Other common livestock species including ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or fowl, including but not limited to swans, guinea fowl, peacocks, and turkeys are not permitted in the City.
(Code of Iowa, Sec. 717.1)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. "Pet" means a living dog, cat, or household pet.
10. "Pet, household" means a living animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.
11. "Poultry" means domestic fowl including chickens, ducks and geese.
12. "Premises" the residence together with its contagious land and outbuildings, occupied by a person. Parcels not contagious to the residence of the occupant are not considered part of the premises.

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

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

(Code of Iowa, Sec. 717.2)

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

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

55.05 POULTRY, LIVESTOCK AND BEES. It is unlawful for a person to keep poultry, livestock or bees within the City without first obtaining a permit from the Council. The fee to apply for such permit shall be set by resolution to cover the average costs of the proceedings. Notice of the hearing before the Council to grant a permit to keep poultry, livestock or bees shall be mailed not less than 15 days prior to the Council's hearing to all property owners within one hundred (100) feet of the boundary of the applicant's premises. If more than ten percent (10%) of all owners of property within the notification area where the poultry, livestock or bees are to be kept oppose the keeping of poultry, livestock or bees on the applicant's premises, the permit shall be granted only upon the unanimous vote of all Council members. Permits are nontransferable and are granted to the resident as long as they reside at the premises. Failure to comply with all terms and conditions under which the permit was granted shall result in voiding the permit and requiring reapplication for a new permit.

1. Livestock. The Council shall not grant a permit to keep livestock unless:
 - A. The premises is adequately and properly fenced and penned to contain the livestock.
 - B. The premises is adequately sized for the number and type of livestock proposed as demonstrated by following Natural Resources Conservation Services publication entitled "Balancing your Animals with Your Forage" and New Hampshire Extension service publication "Housing and Space Guidelines for Livestock".

- C. The livestock shall be penned or fenced no closer than 100' to residences other than the residence on the premises.
 - D. A waste disposal plan is provided to the Council showing how animal waste and refuse will be handled.
2. Poultry. The Council shall not grant a permit to keep poultry on a premises unless:
- A. The premises is adequately and properly fenced and penned to contain the poultry.
 - B. No more than six poultry are permitted on a premises of less than one acre. For each additional acre on the premises, two additional poultry are permitted, however, no more than twelve poultry shall be permitted on any premises.
 - C. The poultry shall be penned or fenced no closer than 50' to residences other than the residence on the premises.
 - D. A waste disposal plan is provided to the Council showing how animal waste and refuse will be handled.
 - E. No male poultry shall be kept on the premises.

55.06 NUMBER OF PETS ALLOWED. Excluding household pets, no person shall keep within the City limits more than a total of six pets and shall have no more than three of any one species of pets.

55.07 ACTS PROHIBITED.

- 1. No person shall keep within the City limits any litters of pets for longer than ten weeks
- 2. No person caring for or owning an animal that dies shall allow the carcass to remain on said person's premises. Such carcass shall be disposed of within 24 hours after death.
- 3. No person shall allow animals in heat to be unconfined or tied outside while in heat. An animal in heat must be kept confined inside for the three-week interval.
- 4. No person caring for or owning an animal, other than bees, shall to allow the animal to run at large within the corporate limits of the City.

55.08 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises. For the purpose of this chapter, interference includes animal feces not removed by the owner of the animal.

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

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

vaccinated against rabies. Dogs kept in State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. An animal may be reclaimed from City impoundment within 48 hours. If the owner does not claim the animal within 48 hours or if the owner is not known, the animal shall be transported to the Story County Animal Shelter for impoundment at their facility as specified under the terms of the City and County contract for Animal Control services. Impound fees for animals impounded by the City but not transported to the Story County Animal Shelter shall be set by Council resolution. If transported to the Story County Animal Shelter, the County fees will be charged in addition to any fees charged by the City.

(Code of Iowa, Sec. 351.37)

55.16 UNLAWFUL REMOVAL. Every person who shall take out or attempt to take out of City detention, cage or pen, any animal located therein without paying the fees prescribed by this chapter shall be deemed guilty of a simple misdemeanor offense, and/or a municipal infraction.

55.17 PET AWARDS PROHIBITED.

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

(Code of Iowa, Ch. 717E)

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CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency
56.04 License Tags
56.05 License Records

56.06 Immunization
56.07 Reissuing Tags
56.08 Transfers of Licensed Dogs
56.09 Kennel Dogs

56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog over the age of six months shall procure a dog license from the City Clerk on or before April 1 of each year.
2. Such license may be procured after April 1 and at any time for a dog that has come into the possession or ownership of the applicant or that has reached the age of six months after said date.
3. The owner of a dog for which a license is required shall apply to the City Clerk on forms provided by the City.
4. The form of the application shall state the breed, sex, month and year of birth, color, markings, and name, if any, of the dog, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered, the date the dog shall be revaccinated, and shall include a photograph or digital image of the dog in sufficient detail to identify the dog.
5. All licenses shall expire on March 31 of the year following the date of issuance.
6. The provisions of this section are not intended to apply to dogs whose owners are nonresidents temporarily within the City.

56.02 LICENSE FEES. The annual license fee shall be as established by resolution of the Council.

56.03 DELINQUENCY. All license fees shall become delinquent on April 1 of the year in which they are due and a delinquent penalty set by Council resolution shall be added to each unpaid license on and after said date.

56.04 LICENSE TAGS. Upon receipt of the application and fee established by resolution, one of the following shall occur:

1. In the case where the City is providing a metal tab license, the City Clerk shall deliver or mail to the owner a license that shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the City, the year in which it is issued, and the name of the City.
2. In the case where the Owner of the dog is providing their own metal tag license uniquely identifying the dog by name and rabies vaccination serial number, the City Clerk shall take a photo copy of both sides of the metal tag provided by the owner and place it in the dog license record.

3. In the case where the Owner of the dog has inserted a readable microchip under the dog's skin for identification and the Owner wishes that identifier to be used in lieu of a metal tag, then the Owner shall provide the microchip's unique identifier to the City Clerk for inclusion in the record for the dog license.

All metal tag licenses shall be securely fastened by the owner to a collar or harness that shall be worn at all times by the dog for which issued. A license issued for one dog shall not be transferable to another dog. Upon the expiration of the license, the owner shall remove said tag from the dog.

56.05 LICENSE RECORDS. The City Clerk shall keep a book to be known as the record of licenses; such record shall show:

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

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

56.07 REISSUING TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of \$2.00 and the City Clerk shall enter the new number assigned.

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

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

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Keeping of Dangerous Animals Prohibited

57.03 Keeping of Vicious Animals Prohibited

57.04 Seizure, Impoundment and Disposition

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

1. “Dangerous animal” means the following animals:
 - A. Badgers, wolverines, weasels, skunk and mink.
 - B. Raccoons.
 - C. Bats.
 - D. Scorpions.
 - E. Any dog with a known propensity, tendency or disposition to attack, unprovoked, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury or to otherwise endanger their safety.
2. “Vicious animal” means any animal, except for a dangerous animal, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal: (i) has bitten or clawed one person during the animal’s lifetime; or (ii) has attacked any domestic animal or fowl without provocation, causing injury or death while off the property of the owner.

57.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City.

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

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

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or

capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and, if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.

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

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

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

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including the following designated streets:

Main Street from Railway Street to Second Street

2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

5. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.

8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. Definition. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Engine Brakes and Compression Brakes

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

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

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

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

88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.

122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
150. Section 321.450 – Hazardous materials transportation.
151. Section 321.454 – Width of vehicles.
152. Section 321.455 – Projecting loads on passenger vehicles.
153. Section 321.456 – Height of vehicles; permits.
154. Section 321.457 – Maximum length.
155. Section 321.458 – Loading beyond front.

156. Section 321.460 – Spilling loads on highways.
157. Section 321.461 – Trailers and towed vehicles.
158. Section 321.462 – Drawbars and safety chains.
159. Section 321.463 – Maximum gross weight.
160. Section 321.465 – Weighing vehicles and removal of excess.
161. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate (or for any person to 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, which results in excessive, loud, unusual, or explosive noise from such vehicle, except in response to an eminent traffic accident.
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 300 feet from the motor vehicle shall constitute evidence of a *prima facie* violation of this section.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 20 MPH School Speed Zones. A speed in excess of 20 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Maxwell Street from Third Street to Fifth Street.
 - B. Metcalf Street from Third Street to Fifth Street.
2. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Main Street from Railway Avenue north to mid-block between Second Street and Third Street.

3. Special 30 MPH Speed Zones. A speed in excess of 30 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Main Street from mid-block between Second Street and Third Street north to Fifth Street.
 - B. Main Street from South Street to Railway Avenue
 - C. Fifth Street from Main Street east to mid-block between Metcalf Street and Ashford Street
4. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Baldwin Street from North Street north to 660 feet north of North Street.
 - B. Fifth Street from mid-block between Metcalf Street and Ashford Street east to the bridge on Rock Creek.
 - C. Meyers Street from the south City limits north to 5th Street / Highway 210.
 - D. Second Street from Army Post Road west to the west City limits.
5. Special 40 MPH Speed Zones. A speed in excess of 40 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Main Street from the south City limits to South Street.
6. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Baldwin Street from 660 feet north of North Street to the north City limits.
 - B. Fifth Street from the bridge on Rock Creek to mid-block between Webb Court and Meyers Street.

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

(Code of Iowa, Sec. 321.294)

CHAPTER 64

TURNING REGULATIONS

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

(Code of Iowa, Sec. 321.311)

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

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

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CHAPTER 65

STOP OR YIELD REQUIRED

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

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

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

(Code of Iowa, Sec. 321.345)

1. Baldwin Street from Second Street to Fifth Street.
2. Baldwin Street from Fifth Street to the north corporate limits.
3. Fifth Street from Main Street to the east corporate limits.
4. First Street from Maxwell Street to Woodlawn Street.
5. Main Street from Railway Street to Fifth Street.

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

(Code of Iowa, Sec. 321.345)

1. Ashford Street. Vehicles traveling south on Ashford Street shall stop at Fourth Street.
2. Baldwin Street. Vehicles traveling north on Baldwin Street shall stop at Broad Street.
3. Baldwin Street. Vehicles traveling south on Baldwin Street shall stop at Second Street.
4. Baldwin Street. Vehicles traveling south on Baldwin Street shall stop at Short Street.
5. Baldwin Street. Vehicles traveling south on Baldwin Street shall stop at Fifth Street.
6. First Street. Vehicles traveling on First Street shall stop at Metcalf Street.
7. Fourth Street. Vehicles traveling east on Fourth Street shall stop at Woodlawn Street.
8. Fourth Street. Vehicles traveling west on Fourth Street shall stop at Metcalf Street.
9. Maxwell Street. Vehicles traveling north on Maxwell Street shall stop at North Street.
10. Metcalf Street. Vehicles traveling north on Metcalf Street shall stop at North Street.

11. Railway Avenue. Vehicles traveling on Railway Avenue shall stop at Short Street.
12. Douglas Drive. Vehicles traveling on Douglas Drive shall stop at Metcalf Street.
13. Second Street. Vehicles traveling on Second Street shall stop at Maxwell Street.
14. Seventh Street. Vehicles traveling on Seventh Street shall stop at Maxwell Street.
15. Sixth Street. Vehicles traveling on Sixth Street shall stop at Maxwell Street.
16. Sixth Street. Vehicles traveling on Sixth Street shall stop at Main Street.
17. Trotter Boulevard. Vehicles traveling south on Trotter Boulevard shall stop at Broad Street.
18. Webb Court. Vehicles traveling north on Webb Court shall stop at Fifth Street.
19. Rock Creek Drive. Vehicles traveling east on Rock Creek Drive shall stop at 660th Avenue.
20. Broad Street. Vehicles traveling west on Broad Street shall stop at Metcalf Street.
21. North Street. Vehicles traveling on North Street shall stop at Main Street.
22. Seventh Street. Vehicles traveling on Seventh Street shall stop at Metcalf Street.
23. North Street. Vehicles traveling on North Street shall stop at Metcalf Street.
24. Woodlawn Street. Vehicles traveling south on Woodlawn Street shall stop at First Street.
25. Trotter Boulevard. Vehicles traveling north on Trotter Boulevard shall stop at Second Street.

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

(Code of Iowa, Sec. 321.345)

1. Fifth Street and Baldwin Street. Vehicles approaching the intersection of Fifth Street and Baldwin Street from the north, south and west shall stop before entering such intersection.

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

(Code of Iowa, Sec. 321.345)

1. Main Street and Seventh Street.
2. Maxwell Street and Third Street.
3. Metcalf Street and Third Street.
4. Main Street and Fifth Street.
5. Metcalf Street and Second Street.

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

(Code of Iowa, Sec. 321.345)

1. First Street. Vehicles traveling west on First Street shall yield at Trotter Boulevard.
2. Sixth Street. Vehicles traveling on Sixth Street shall yield at Metcalf Street.
3. Trotter Boulevard. Vehicles traveling north on Trotter Boulevard shall yield at Second Street.

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

(Code of Iowa, Sec. 321.249)

1. Intersection of Fifth Street and Maxwell Street.
2. Intersection of Fourth Street and Maxwell Street.
3. Intersection of Fourth Street and Main Street.

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

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

66.04 Load Limits on Bridges
66.05 Truck Routes

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

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

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every motor vehicle weighing eight tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other. For the purpose of this section, the terms motor vehicle, motor truck, truck tractor, trailer and semi-trailer shall have the meanings defined in Section 321.1 of the *Code of Iowa*.

(Code of Iowa, Sec. 321.473)

A. Fifth Street/Highway 210 from the east City limit to Baldwin Street.

- B. Main Street/Highway 210 from Fifth Street, south to south City limit.
 - C. Baldwin Street from Fifth Street, north to City limit.
 - D. Second Street from west City limit to Main Street.
2. Deliveries Off Truck Route. Any motor vehicle weighing eight tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload, and return by the most direct route to its point of departure from said designated route.
(Code of Iowa, Sec. 321.473)
3. Employer's Responsibility. The owner or any other person employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
(Code of Iowa, Sec. 321.473)

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CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. Douglas Drive shall be eastbound only from Maxwell Street to Metcalf Street.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Parking on One-Way Streets
69.03 Angle Parking
69.04 Manner of Angle Parking
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons with Disabilities Parking

69.08 No Parking Zones
69.09 All Night Parking Prohibited
69.10 Truck Parking Limited
69.11 Parking Limited to Fifteen Minutes
69.12 Snow Removal
69.13 Temporary No Parking Zones

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. 1st (First) Street, on the south side, from Main Street east to the alley.
2. 1st (First) Street, on the south side, from Main Street to Trotter Boulevard.
3. 2nd (Second) Street, on the north side, from Main Street east to the alley.
4. 3rd (Third) Street, on the north side, from eight feet east of Maxwell Street east 96 feet.
5. 3rd (Third) Street, on the south side, from Main Street east to the alley.
6. 4th (Fourth) Street, on the south side, from Metcalf Street east 45 feet.
7. Broad Street, on the north side, from Main Street east to the alley.
8. Broad Street, on the north side, from Main Street west to the alley.
9. Maxwell Street, on the east side, from 17 feet north of the north right-of-way line of Fourth Street north for 158 feet.
10. Maxwell Street, on the east side, from 30 feet north of Third Street north for 160 feet.
11. Maxwell Street, on the east side, from the south right-of-way line of Fourth Street north for 47 feet.
12. Short Street, on the north side, from Baldwin west 200 feet.

13. Trotter Boulevard, on the west side, from First Street to 50 feet south of Second Street.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 72 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])

9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, Sec. 321.358[8])

10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.

(Code of Iowa, Sec. 321.358[9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(Code of Iowa, Sec. 321.358[10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358[11])

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

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

14. Buildings with Large Assemblages of People. A space not to exceed 50 feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than 25 sleeping rooms, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

19. Medical Clinics, Dentist and Doctors' Offices. A space of 50 feet is hereby reserved at the side of the street in front of any medical clinic or dentist or doctors' office within which space, during office hours, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped for taking on or discharging passengers

or freight unless the occupant is conducting business within the medical clinic or dentist or doctors' office, and then only for such length of time as is necessary for such purpose.

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

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

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

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

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

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

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

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

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

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

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

1. 3rd (Third) Street, east of Maxwell Street on the north side, from the school drive to Metcalf Street.

2. 4th (Fourth) Street, on the north side, from Metcalf Street to Ashford Street between the hours of 10:00 a.m. and 2:00 p.m. on the days Monday through Friday while school is in session.

3. 4th (Fourth) Street, on the south side, from 48 feet east of Metcalf Street to Ashford Street between the hours of 10:00 a.m. and 2:00 p.m. on the days Monday through Friday while school is in session.

4. 5th (Fifth) Street, on both sides, from Main Street to the east corporate limit.

5. 7th (Seventh) Street, on the north side, from Metcalf Street east to the end of the block.

6. Baldwin Street, on the west side, from Fifth Street to a point 55 feet north.
7. Douglas Drive, on both sides, from Maxwell Street to Metcalf Street.
8. Metcalf Street, north of Third Street on the west side, from the main entrance steps of the school to a point approximately 75 feet north.
9. Metcalf Street, on the east side, from Third Street to Fifth Street.
10. Metcalf Street, on the west side, from Douglas Drive to Fifth Street.
11. North Street, on the north side, from Metcalf Street east to the end of the block.
12. Rock Creek Drive, on the north side, in front of the properties from 602 Rock Creek Drive through 700 Rock Creek Drive.
13. Rock Creek Drive, on the south side, from Fifth Street to 660th Avenue.
14. Webb Court, along the entire east side of Webb Court.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day unless the person has obtained an overnight parking sticker issued by the Council. Such sticker shall cost \$15.00, be issued only to the owner or occupant of the structure within the prohibited parking area, be displayed in the upper left corner of the vehicle's windshield and will be valid for one year. In issuing the permit, the Council shall consider the availability of parking on the property and adequacy of access to the property.

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

1. Main Street, on both sides, from Railway Street to Second Street.

69.10 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner that will not interfere with other traffic.

A. First Street, from Trotter Boulevard to Main Street.

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

69.11 PARKING LIMITED TO FIFTEEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than fifteen minutes:

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

1. Between the hours of 8:00 a.m. and 6:00 p.m. on each day on Main Street, from 25 feet north to 25 feet south of the entrance to the Maxwell Post Office;
2. Between the hours of 8:00 a.m. and 6:00 p.m. Monday thru Saturday, at the location 25 feet south of First Street on the west side of Main Street.
3. Between the hours of 8:00 a.m. and 6:00 p.m. Monday thru Saturday, at the location 25 feet west of Main Street on the south side of First Street.

69.12 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street during the time of any snow fall and the 24 hours following the end of any snow fall.

(Code of Iowa, 321.236[1])

69.13 TEMPORARY NO PARKING ZONES. No person shall stop, stand, or park a vehicle in any area designated by the City as a “Temporary No Parking Zone” during any of the following times or periods.

1. When there are festivals or celebrations within the City.
2. When an emergency situation, construction condition or safety necessity requires the designation of such an area.

The designated area shall be marked with orange cones and “No Parking” signs for the designated period which shall not exceed 72 hours.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The following City officials are authorized to issue these civil citations: a Peace Officer, the Mayor, the Public Works Director, and Public Works Assistant. The citation will be by a civil citation. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$25.00 for snow removal parking violations and \$10.00 for all other violations except improper use of a persons with disabilities parking permit. The simple notice of fine for improper use of a persons with disabilities parking permit is \$100.00. If such fine is not paid within 30 days, it shall be increased by \$5.00. If a party wishes to appeal this violation, they must request, within 10 days of the date of the citation, a hearing before the next regularly scheduled City Council meeting. Unpaid fines will be submitted to the Story County Treasurer pursuant to the 28E Agreement between Story County, Iowa and the City of Maxwell, Iowa. Also, *Code of Iowa* Section 321.236(1)(c)(1) shall apply to these unpaid civil violations. The failure to pay the parking fine(s) can be grounds for refusal to renew the offending parties' motor vehicle registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES, OFF-ROAD UTILITY VEHICLES, GOLF CARTS, SNOWMOBILES AND OTHER MOTOR VEHICLES

75.01 Purpose	75.08 Negligence
75.02 Definitions	75.09 Accident Reports
75.03 General Regulations	75.10 Registration and Proof of Insurance
75.04 Place of Operation for Snowmobiles	75.11 Safety Equipment
75.05 Manner of Operation of Snowmobiles	75.12 Operation Qualifications
75.06 Place of Operation of All-Terrain and Off-Road Vehicles	75.13 Hours of Operation
75.07 Place of Operation of Golf Carts	75.14 Special Events
	75.15 Violations

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of motor vehicles such as all-terrain vehicles, off-road utility vehicles, golf carts, and snowmobiles within the City.

75.02 DEFINITIONS.

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

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

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

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

3. “Off-road utility vehicle” or “UTV” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

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

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

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

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

4. “Golf cart” means a three- or four-wheeled motor vehicle with total dry weight of less than 1,000 pounds, dimensions not greater than 150 inches in length and 50 inches in width, and seats (but not saddles) for two to four passengers, and maximum speed not over 20 miles per hour. A golf cart is a motor vehicle originally designed for carrying passengers and golf equipment for recreational use while golfing.

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

(Code of Iowa, Sec. 321G.1.26)

6. “Wheel chair” means a wheeled conveyance with not more than one seat designed for and utilized by a person with limited mobility. The term wheel chair includes chairs propelled by the occupant and motorized chairs propelled by an electric motor to a maximum speed not over 10 miles per hour. Chairs not meeting the foregoing definition shall be treated as off-road utility vehicles.

7. “Motor vehicle” means a vehicle which is self-propelled and not operated upon rails. For purposes of this chapter all-terrain vehicles, off-road motorcycles, golf carts, off-road utility vehicles, golf cart, riding lawn mowers, and snowmobiles are motor vehicles however, a wheel chair meeting the above definition is not a motor vehicle and is not subject to the motor vehicle regulations of this chapter.

(Code of Iowa, Sec. 321.1)

8. “Traveled portion of a City street” means that part of the public right-of-way designed for the passage of motor vehicles and generally lying between the curbs or, where curbs do not exist, between the ditches or “parking.”

9. “Bicycle safety flag” refers to a fluorescent green or orange triangular or rectangular pennant having dimensions of not less than six inches by nine inches mounted on a pole at least five feet in height.

10. “Slow moving vehicle emblem” means a fluorescent, red-orange equilateral triangle with a red retroreflective border, permanently mounted or movable (mounted using the manufacturer’s specified socket and bracket or by other means that provide secure and rigid attachment) with the point of the triangle upward, on the rear of the vehicle and either centered or as near to the left of center of the vehicle or equipment as practical so that it is clearly visible to the driver of a vehicle approaching from the rear. The effective reflectivity and fluorescence of the emblem shall not be obscured to the extent that the triangular shape is readily identifiable both day and night.

75.03 GENERAL REGULATIONS.

1. No person shall operate any motor vehicle regulated by this chapter within the City except as provided in this chapter, or in violation of Chapter 321I of the *Code of Iowa* or 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 the registration, numbering, equipment and manner of operation of such motor vehicles.

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

2. Motor vehicles regulated by this chapter exceeding the maximum parameters set out in the section 75.02 shall not be permitted upon the traveled portion of City streets or on other City lands.
3. A person utilizing a wheel chair is a pedestrian and shall conform to the rules and regulations for pedestrians upon the traveled portion city streets.
4. No person shall operate a riding lawn mower upon the traveled portion of City streets unless the person as attained the age of 12 years.
5. When permitted to be operated upon the traveled portion of a City street by this chapter, the operator of any such motor vehicle shall conform to all laws relating to the movement of traffic and parking. Except where inconsistent with this chapter, the operator of a motor vehicle permitted under this chapter shall be subject to criminal liability for violations of state and City laws in the same manner as the operator of an automobile.
6. Government-owned vehicles. Motor vehicles otherwise regulated by this chapter and owned by and operated for government purposes, such as street maintenance or traffic control, shall be exempt from the limitations of this section.
7. Headlamp, tail lamp, brakes. Every motor vehicle operated during the hours of darkness shall display a lighted headlamp and tail lamp. Every motor vehicle shall be equipped with brakes.

75.04 PLACE OF OPERATION FOR SNOWMOBILES. The operators of snowmobiles shall observe the following limitations as to where snowmobiles may be operated:

1. Unplowed Streets. Snowmobiles may be operated upon streets which have not been plowed during the snow season.
(Code of Iowa, Sec. 321G.9[4a])
2. Other Streets. Snowmobiles may be operated on such other streets as may be designated by resolution of the Council. No snowmobile shall be driven on any roadway solely for entertainment or pleasure.
3. Parks and other Public Land. Snowmobiles shall not be operated in any City Park, play ground or upon any other publicly owned property except with the express permission of the governing body thereof.
4. Private property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.
5. Sidewalk or Parking. No snowmobile shall be operated upon the public sidewalk, nor shall they be operated upon that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this Chapter.

75.05 MANNER OF OPERATION OF SNOWMOBILES. No person shall operate a snowmobile in the City except as hereafter provided:

1. Registration. No snowmobile shall be operated in the City unless registered pursuant to State Law and unless the identifying number set forth in the registration is displayed on each side of the snowmobile.
2. Equipment. All snowmobiles shall be equipped with muffling devices, lights and other equipment required by State Law or regulation.
3. Traffic Code. Snowmobile operators shall observe all state and local traffic-control regulations and devices.
4. Speed. Snowmobiles shall not at any time be operated on streets at a speed in excess of 25 mph nor at a speed in excess of that posted nor at a rate of speed greater than reasonable and proper under all existing circumstances.
5. Careless Operation. No person shall operate a snowmobile in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
6. Intoxicated. No person shall operate a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs.
7. Lights. No person shall operate a snowmobile without a lighted headlight and tail- light when required for safety.
8. Unattended. No operator or owner shall leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys in the ignition switch.
9. Direct Crossing. A snowmobile may make a direct crossing of a prohibited street or highway provided:
 - A. The crossing is made at an angle approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing; and
 - B. The snowmobile is brought to a complete stop before crossing the shoulder or main traveling way of the street or highway; and
 - C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

(Code of Iowa, Sec. 321G.9[2])
10. Minors. No persons under 16 years of age shall operate a snowmobile on or across a public street unless he has in his/her possession a valid safety certificate issued to him by the State Conservation Commission nor shall the owner or operator of any snowmobile having an engine rating of 300 cubic centimeters or more permit any person under 12 years of age to operate such a snowmobile at any time except when accompanied by a responsible person of at least 18 years of age.
11. Single File. Snowmobiles shall be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.
12. Towing. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

13. Dead Man Throttle. No snowmobile shall be operated within the City unless equipped with a “dead man” throttle which when pressure is removed from the accelerator or throttle causes the engine to be disengaged from the drive mechanism.

75.06 PLACE OF OPERATION OF ALL-TERRAIN AND OFF-ROAD UTILITY VEHICLES. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on the travel portion of a City street, but only in accordance with provisions of this chapter and Section 321.234A of the *Code of Iowa*.

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

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

(Code of Iowa, Sec. 321I.10[4])

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

4. Sidewalk or Parking. ATVs and UTVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.” The provisions of this section shall not apply to an ATV or UTV operated by emergency personnel.

75.07 PLACE OF OPERATION OF GOLF CARTS. The operators of golf carts shall comply with the following restrictions:

1. Streets. Golf carts may be operated on the traveled portion of a City street, but only in accordance with provisions of this chapter.

2. Parks and Other City Land. Golf carts shall not be operated off the established driveways and parking areas in any park, playground or upon any other City-owned property without the express permission of the City.

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

4. Private Property. No golf cart shall be operated upon private property without the express consent of the owner thereof.

75.08 NEGLIGENCE. The owner and operator of any motor vehicle regulated under this chapter are jointly liable for any injury or damage occasioned by the negligent operation of such vehicle, however the owner shall be liable for any such injury or damage only if the owner was the operator of the motor vehicle at the time the injury or damage occurred or if the operator had the owner's consent to operate the motor vehicle at the time the injury or damage occurred.

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

75.09 ACCIDENT REPORTS. An operator of a motor vehicle regulated under this chapter shall comply with the requirements of chapter 321 of the Iowa Code with respect to the reporting of accidents. Whenever any ATV, UTV, golf cart, snowmobile, or other motor vehicle subject to this chapter is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,000.00 or more, either the operator or someone acting for the operator

shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

75.10 REGISTRATION & PROOF OF INSURANCE. Except when traveling from the owner's premises on the shortest path to routes designated by resolution of the City Council or when on the routes designated by resolution of the city council, no person shall operate any motor vehicle subject to this chapter upon the traveled portion of a city street until such motor vehicle has been registered with the city clerk upon forms prescribed for such purpose. The City shall require evidence of insurance before permitting registration. Every ATV, a golf cart, or an off-road utility vehicle upon the traveled portion of a City street shall display a registration sticker provided by the City. The annual registration fee shall be set by resolution of the City Council for any year or part thereof, effective with the enactment of this ordinance. After the initial registration, renewal registrations shall be due each succeeding April 1. The Council may, from time to time, change the registration fee by resolution of the Council.

75.11 SAFETY EQUIPMENT. No person shall operate any motor vehicle subject to this chapter upon the traveled portion of a City street until such motor vehicle has been equipped with a bicycle safety flag extending two feet above the highest part of the vehicle and not less than five feet above the ground. No person shall operate Golf Carts or any motor vehicle subject to this chapter whose speed is restricted to 20 mph or 5 mph less than the posted speed until such vehicle is equipped with a slow-moving vehicle emblem.

75.12 OPERATOR QUALIFICATIONS. No person shall operate any motor vehicle subject to this chapter (other than a riding lawn mower) upon the traveled portion of a City street unless such person has a valid (i) Iowa driver's license, (ii) Iowa instruction permit with the driver following the restrictions of such permit, or (iii) Iowa School permit with the operator following the restrictions of such permit.

75.13 HOURS OF OPERATION. No person shall operate any ATV, UTV, golf cart, snowmobile, or other motor vehicle subject to this chapter upon the traveled portion of a City street before sunrise or after sunset unless such vehicle is properly lit with factory installed headlights and tail lights.

75.14 SPECIAL EVENTS. The Council may, from time to time, by resolution, waive any or all regulations provided in this chapter for a limited period of time.

75.15 VIOLATIONS. A violation of this chapter may be charged as a municipal infraction or as a simple misdemeanor.

CHAPTER 76

BICYCLE AND SKATEBOARD REGULATIONS

76.01 Scope of Regulations	76.08 Riding on Sidewalks
76.02 Traffic Code Applies	76.09 Towing
76.03 Double Riding Restricted	76.10 Improper Riding
76.04 Two Abreast Limit	76.11 Parking
76.05 Speed	76.12 Equipment Requirements
76.06 Emerging from Alley or Driveway	76.13 Special Penalty
76.07 Carrying Articles	

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle or skateboard is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1] & Sec. 321.90)

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

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

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

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 20 days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within 10 days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the 10-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

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

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

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

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

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

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

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

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

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions

90.02 Superintendent's Duties

90.03 Mandatory Connections

90.04 Abandoned Connections

90.05 Permit

90.06 Fee for Permit and Connection Charge

90.07 Compliance with Plumbing Code

90.08 Plumber Required

90.09 Excavations

90.10 Tapping Mains

90.11 Installation of Water Service Pipe

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90.16 Inspection and Approval

90.17 Completion by the City

90.18 Shutting Off Water Supply

90.19 Operation of Curb Valve and Hydrants

90.20 Private Wells Prohibited

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

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

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

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

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

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

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

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay \$50.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspection of the work. There shall be a connection charge based upon service size, paid for City costs before a permit is issued. The connection charges will be as follows:

(Code of Iowa, Sec. 384.84)

1. A \$200.00 connection fee on service sizes of three-fourths inch or less.
2. A \$400.00 connection fee on service sizes more than three-fourths inch in size.

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

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

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

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

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

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

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

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

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation and connection of the water service including pipe, tap, corporation stop, curb valve and interior valve from the main to the building served shall be borne by the owner. Once installed and accepted, the City shall be responsible for maintenance and replacement of the tap, corporation stop and curb valve should any of these become defective and shall pay for the maintenance or replacement through water rates. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the maintenance of the water service pipe.

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

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a shut-off valve, referred to as the curb valve, on the water service pipe of a pattern approved by the Superintendent. The curb valve shall be covered by a heavy metal cover having the letter "W" marked thereon and shall be constructed to be visible and even with the pavement or ground at a location near and outside the outer sidewalk line where a sidewalk exists or, when there is no sidewalk, near and outside the location where the outer sidewalk line would be. It shall be the responsibility of the owner to ensure the curb valve remains visible and accessible to the City. After the curb valve has been accepted by the City, the owner shall indemnify the City for any cost occasioned in reestablishing access to the curb valve.

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

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

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

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

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

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

90.20 PRIVATE WELLS PROHIBITED. It is unlawful for any person to drill, install, own, operate, or maintain a private well on real property located within the City. Any private wells existing on the effective date of the ordinance codified in this section[†] shall be subject to routine inspection and testing and such additional regulation by the City and such other governmental entities having jurisdiction over wells. Existing private wells not meeting all applicable regulations, ordinances, and codes shall be ordered closed immediately.

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[†] **EDITOR'S NOTE:** Ordinance No. 233, adding a section prohibiting private wells within the City, was adopted by the Council on June 16, 2008, and published by posting on July 17, 2008.

CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems; Exception

91.04 Meter Setting

91.05 Meter Costs

91.06 Meter Repairs

91.07 Right of Entry

91.08 Extra Outside Meters

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

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished and installed by the City. Outside remote readers are required on all meters and shall be purchased by each customer from the City. The City will install the remote readers.

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

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

91.05 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

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

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

91.08 EXTRA OUTSIDE METERS. The City makes available extra meters for rent as second meters by those customers interested in using water for lawns, gardens, and similar exterior uses where the water used does not drain to the sewerage treatment plant. Once a second meter is installed, the consumption registered on the second meter will be subtracted from the total consumption on the regular inside meter and charged at a water and tax only rate. The second meters will be available to rent for \$10.00 a season with a \$100.00 replacement fee if the meter is not returned at the end of the year. Second meters sold to residents prior to

calendar year 2012 may continue to be used by residents provided all other provisions of this section are met.

1. Second meters may be used starting April 1 of each year.
2. The second meter must be removed by the customer in the fall to prevent freezing and damage and turned back in to the City no later than November 1 so the City can inspect the meter for damage and perform maintenance and calibration prior to storage. Meters owned by residents shall be marked so as to be returned to the same resident. If the meter owned by a resident can no longer be maintained in good working order, it may no longer be used as a second meter.
3. It will be the customer's responsibility to call the reading in by the fifteenth of every month. If not reported by the fifteenth of the month, the consumption on the second meter will be recorded as zero gallons used for that month.

A customer may request to have City personnel install the second meter. Such a customer will be charged a fee set by resolution for hiring the City to do the work and shall be charged for any special materials required to install the meter. If evidence of tampering with the second meter occurs, in addition to this being a municipal infraction, the City will revert to the readings on the regular inside meter and the customer will be responsible for the customary sewer charges for all water consumed.

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CHAPTER 92

WATER RATES

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

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

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

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

1. Service Charge. A customer service charge of \$20.62 per month (minimum bill) shall be charged despite any temporary absence of the customer
2. Usage Charge – Metered Service (figured on each gallon used).
Water Usage Rate – \$1.48 per 1,000 gallons.
3. Water used for outside purposes only shall be registered on the extra outside meter and be billed at the following rate.
Annual startup fee – \$10.00
All water used per month on outside meter – \$1.48 per 1,000 gallons.
4. Bulk Sales.
All bulk sales – \$1.00 per 100 gallons.

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

(Code of Iowa, Sec. 364.4 & 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk upon receipt. Bills not paid in full by the fifteenth day of the month shall be considered delinquent.

3. Late Payment Penalty. A one-time late payment penalty of \$20.00 shall be added to each delinquent bill. Each delinquent customer shall be granted a one-time late payment penalty waiver per 12-month period.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon two days prior to the scheduled shut off date, the Mayor shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. If the Mayor finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Fees. A fee of \$35.00 shall be charged before service is restored to a delinquent customer. However, if payment in full is made to the Superintendent at the time of the shut-off trip, a service fee of \$25.00 shall be charged and the Superintendent shall give the customer a receipt for the payment. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

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

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

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

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

2. **Surface Run-Off or Groundwater.** Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. **Manholes.** Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. **Objectionable Wastes.** Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 30 days after date of official notice from the City to do so provided that said public sewer is located within 150 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

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

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Permit Fee/Connection Charge
96.03 Plumber Required
96.04 Connection Requirements
96.05 Sewer Tap

96.06 Excavations
96.07 Inspection Required
96.08 Property Owner's Responsibility
96.09 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 30 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of \$50.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. 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 been assessed only as an unimproved lot, the owner shall pay a connection fee to the Clerk for the use of the public sewers of \$200.00 before the permit is issued.

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

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *International Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.

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

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

96.07 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *International Plumbing Code*.

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

96.09 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter shall be deemed a nuisance and the same shall be abated by the City in the manner provided for the abatement of nuisances.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

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

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

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

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

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

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

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

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

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

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

CHAPTER 98
ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions

98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage
98.09 Minimum Lot Area

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

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

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 1,500 square feet.

CHAPTER 99

SEWER SERVICE CHARGES

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

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

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

(Code of Iowa, Sec. 384.84)

1. Service Charge.

A customer service charge of \$34.25 per month (minimum bill) shall be charged despite any temporary absence of the customer.

2. Usage Charge – figured on each gallon used, based upon the amount of water consumed excluding metered water for outside purposed.

Sewer Usage Fee \$1.87 per 1,000 gallons.

99.02 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

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

99.05 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.06 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose

105.02 Definitions

105.03 Sanitary Disposal Required

105.04 Health and Fire Hazard

105.05 Open Burning Restricted

105.06 Separation of Yard Waste Required

105.07 Littering Prohibited

105.08 Toxic and Hazardous Waste

105.09 Waste Storage Containers

105.10 Prohibited Practices

105.11 Sanitary Disposal Project Designated

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.

2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])

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

4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

5. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

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

6. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

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

(IAC, 567-100.2)

8. “Residential premises” means a single-family dwelling and any multiple-family.

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

(IAC, 567-100.2)

10. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

11. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

(Code of Iowa, Sec. 455B.301)

12. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined in Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

(1) Processed at a pyrolysis or gasification facility.

(2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days

shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in biodegradable bags purchased at City Hall and delivered by the owner or occupant to a site designated by the City. The weight of any individual bag shall not exceed 75 pounds. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.09 WASTE STORAGE CONTAINERS.

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential solid waste containers shall be provided by the collector or comply with the collector's requirements.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers is impractical, shall maintain metal bulk storage containers approved by the City.

2. **Storage of Containers.** Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. **Location of Containers for Collection.** Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. **Nonconforming Containers.** Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. **Unlawful Use of Containers.** Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. **Interfere with Collectors.** Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. **Incinerators.** Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. **Scavenging.** Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The Resource Recovery Plant operated by the City of Ames, Iowa, are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. The fee for solid waste collection and disposal service, used or available, for each residential premises and for each dwelling unit of a multiple-family dwelling shall be \$17.00 per month. Additional containers will be available for an additional \$10.00 per month per container per dwelling unit.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Placement of Equipment
110.03 Excavations
110.04 Relocation of Equipment
110.05 Easements

110.06 Standards of Service
110.07 Franchise Fee
110.08 Term of Franchise
110.09 Amendments

110.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors and assigns, the right, privilege and nonexclusive franchise for the term of 25 years from and after the passage, adoption, approval and acceptance of the ordinance codified in this chapter,[†] to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas” as used in this franchise shall be construed to mean natural gas only.

110.02 PLACEMENT OF EQUIPMENT. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City. The Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

110.04 RELOCATION OF EQUIPMENT. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right of way that have been relocated at Company expense at the direction of the City during the previous ten years, the reasonable costs of such relocation will be paid by

[†] **EDITOR’S NOTE:** Ordinance No. 289, adopting a natural gas franchise for the City, was passed and adopted on February 8, 2016.

the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

110.05 EASEMENTS. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has gas facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

110.06 STANDARDS OF SERVICE. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.07 FRANCHISE FEE. There is hereby imposed a franchise fee of two percent upon the gross revenue generated from sales of natural gas by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.08 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days from passage of the ordinance codified in this chapter.

110.09 AMENDMENTS. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact or maintain 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.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Placement of Equipment
111.03 Excavations
111.04 Relocation of Equipment
111.05 Easements
111.06 Pruning Trees

111.07 Standards of Service
111.08 Continuous Service
111.09 Franchise Fee
111.10 Term of Franchise
111.11 Amendments

111.01 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 nonexclusive franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of 25 years;[†] the franchise also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

111.02 PLACEMENT OF EQUIPMENT. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City. The said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

111.04 RELOCATION OF EQUIPMENT. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right of way that have been relocated at Company expense at the direction of the City during the previous ten years, the reasonable costs of such relocation will be paid by

[†] **EDITOR’S NOTE:** Ordinance No. 290, adopting an electric franchise for the City, was passed and adopted on February 8, 2016.

the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

111.05 EASEMENTS. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

111.06 PRUNING TREES. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

111.07 STANDARDS OF SERVICE. During the term of the franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

111.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 FRANCHISE FEE. There is hereby imposed a franchise fee of two percent upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

111.10 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days from passage of the ordinance codified in this chapter.

111.11 AMENDMENTS. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified or otherwise amended without the written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact or maintain any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

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CHAPTER 115

CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Cemetery Sexton
115.04 Duties of Sexton

115.05 Records
115.06 Sale of Interment Rights
115.07 Perpetual Care
115.08 Rules and Regulations

115.01 DEFINITION. The term “cemetery” means the Maxwell Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

115.03 CEMETERY SEXTON. The Cemetery Sexton shall operate the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.

(Code of Iowa, Sec. 372.13[4])

115.04 DUTIES OF SEXTON. The duties of the Cemetery Sexton are as follows:

(Code of Iowa, Sec. 372.13[4])

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery;
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.

115.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.

- C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by resolution of the Council.

(Code of Iowa, Sec. 523I.310)

115.07 PERPETUAL CARE. The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS A person holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday (including Saturday), and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided

that a holder of any class of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

(Code of Iowa, Sec. 123.49[2b] & 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 453A.1*)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122
PEDDLERS, SOLICITORS, AND TRANSIENT
MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 License Exemptions
122.08 Display of License	122.17 Charitable and Nonprofit Organizations
122.09 License Not Transferable	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

122.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee set by Council resolution shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. License fees set by Council resolution shall be paid to the Clerk prior to the issuance of any license.

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Collins-Maxwell School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.17 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the peace officer, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

123.06 PERMIT FEE. A permit fee set by Council resolution shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

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| 135.01 Removal of Warning Devices | 135.08 Burning Prohibited |
| 135.02 Obstructing or Defacing | 135.09 Excavations |
| 135.03 Placing Debris On | 135.10 Property Owner's Responsibility for Maintenance |
| 135.04 Playing In | 135.11 Failure to Maintain |
| 135.05 Traveling on Barricaded Street or Alley | 135.12 Dumping of Snow |
| 135.06 Use for Business Purposes | 135.13 Driveway Culverts |
| 135.07 Washing Vehicles | |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

(Code of Iowa, Sec. 364.12[2])

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
5. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
6. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.
7. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

8. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
9. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
10. Permit Issued. Upon approval of the application and filing of insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

(Code of Iowa, Sec. 364.12[2c])

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2e])

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

(Code of Iowa, Sec. 364.12[2])

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice, and Accumulations	136.12 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.13 Openings and Enclosures
136.05 City May Order Repairs	136.14 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.15 Defacing
136.07 Permit Required	136.16 Debris on Sidewalks
136.08 Sidewalk Standards	136.17 Merchandise Display
136.09 Barricades and Warning Lights	136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

136.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS.

(Code of Iowa, Sec. 364.12[2b & e])

1. It is the responsibility of the abutting residential property owners to remove snow, ice and accumulations promptly from sidewalks. If the property owner does not remove snow, ice and accumulations within 24 hours after snow stops, the City may do so and assess the cost of \$20.00 per street side against the property owner in the same manner as property tax.

2. Property Owners in the Business District from Railway/Short Street on Main Street to Second Street will be responsible for the removal of the snow, ice, and accumulations within 24 hours after snow stops.
3. Any resident, disabled and/or 62 years of age and a property owner, may apply at City Hall before October 1 each year and the City will remove snow from the sidewalks free of charge.

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

(Code of Iowa, Sec. 364.12[2c])

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d & e])

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:

- A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
 - C. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
 7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
 9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
 10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.14 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 364.12[2])

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.
(Code of Iowa, Sec. 392.1)

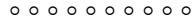
137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.
(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.
(Code of Iowa, Sec. 174.15[2] & 364.7[3])



CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Maxwell, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

(Code of Iowa, Sec. 364.12[3h])

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF MAXWELL, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

(Code of Iowa, Sec. 364.12[3h])

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

(Code of Iowa, Sec. 364.12[3h])

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

146.01 DEFINITIONS. For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 148

PUBLIC WATER SUPPLY WELLHEAD PROTECTION

148.01 Definitions

148.02 Substances Regulated

148.03 Maps of Zones of Influence

148.04 Restrictions Within the Primary Protection Zone

148.05 Restrictions Within the Secondary Protection Zone

148.06 Restrictions Within the Zone of Sensitivity

148.07 Exceptions

148.08 Determination of Locations Within Zones

148.09 Enforcement

148.10 Inspections

148.11 Notice of Violation, Hearing, and Penalties

148.12 Injunctive Relief

148.01 DEFINITIONS. The following terms are defined for use in this chapter:

1. “Aquifer” means a rock formation, group of rock formations, or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. “Contamination” means the presence of any harmful or deleterious substances in the water supply.
3. “Groundwater” means subsurface water in the saturated zone from which wells, springs, and groundwater runoff are supplied.
4. “Hazardous substances” means those materials specified in Section 148.02 of this chapter.
5. “Labeled quantities” means the maximum quantity of chemical as recommended on the label, for specific applications.
6. “Person” means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
7. “Potable water” means water that is satisfactory for drinking, culinary, and domestic purposes, meeting current drinking water standards.
8. “Primary containment” means the first level of product-tight containment, i.e., the inside portion of a container, which comes into immediate contact on its inner surface with the hazardous material being contained.
9. “Public utility” means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
10. “Secondary containment” means the level of product-tight containment external to and separate from the primary containment. Secondary containment consists of leak-proof trays under containers, floor curbing, or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
11. “Time-related capture zone” means the surface or subsurface area surrounding a pumping well, which will supply groundwater recharge to the well within some specified period of time.

12. “Toxic substance” means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption into the body.
13. “Transit” means the act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two hours.
14. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.
15. “Well field” means a tract of land that contains a number of wells for supplying water.
16. “Wellhead protection zones” means zones delineated fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.

148.02 SUBSTANCES REGULATED. The materials regulated by this chapter shall consist of the following:

1. Substances listed in 40 CFR Section 302.4, List of Hazardous Substances and Reportable Quantities.
2. Substances listed by the Iowa Labor Commissioner pursuant to Section 89B.12 of the *Code of Iowa* (Hazardous Chemicals Risks – Right to Know).
3. Substances listed in 40 CFR Section 261, subparts A, B, C, and D, Federal Hazardous Waste List.

148.03 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zone of Protection Maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps shall be on file at City Hall. At the time of adoption of the ordinance codified in this chapter, the location of all wells in Maxwell supplying potable water to the City Water System shall be located on the official wellhead protection map with Primary Zone, Secondary Zone, and Zone of Sensitivity indicated.
2. Map Maintenance. The Zone of Protection Maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:
 - A. Changes in the technical knowledge concerning the aquifer.
 - B. Changes in permitted pumping capacity of City wells.
 - C. Addition of wells or elimination of existing wells.
 - D. Designation of new well fields.
3. Wellhead Protection Zones. The zones of protection indicated on the Zone of Protection Maps are as follows:
 - A. Primary Protection Zone – the area within the two-year time-related capture zone of any well supplying potable water to the City water system.
 - B. Secondary Protection Zone – the area within the 10-year time-related capture zone, excluding the Primary Protection Zone, of any well supplying potable water to the City water system.

C. Zone of Sensitivity – the area within the 20-year time-related capture zone, excluding the Primary and Secondary Protection Zones, from any well supplying potable water to the City water system.

148.04 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited.

A. Industrial buildings within the City, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa DNR “separation distances for wells” for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the state of Iowa Department of Natural Resources.

B. Playgrounds and parks.

C. Wildlife areas, open spaces.

D. Lawns and gardens.

E. Non-motorized trails, such as biking, skiing, and nature and fitness trails.

2. Additional Restrictions. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

D. No person shall abandon a public or privately owned well without notifying the Wellhead Protection Officer and Iowa Department of Natural Resources. All abandoned wells shall be properly plugged pursuant to the Iowa Administrative Code: IAC [567] Chapter 39.

148.05 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone. Uses not listed are to be considered prohibited.

A. All uses listed as permitted in the Primary Protection Zone.

B. Sewer – residential and commercial.

C. Above ground storage tanks when in compliance with federal, State, and local laws and regulations.

D. Basement storage tanks.

- E. Livestock grazing and field cropping activities.
- 2. Additional Restrictions. Additional restrictions are as follows:
 - A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.
 - B. Any person responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines.
 - C. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to the Wellhead Protection Officer, regardless of such person's status under Section 148.07.
 - D. No person shall abandon a public or privately owned well without notifying the Wellhead Protection Officer and Iowa Department of Natural Resources. All abandoned wells shall be properly plugged pursuant to the Iowa Administrative Code: IAC [567] Chapter 39.

148.06 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY.

- 1. Permitted Uses. The following uses are permitted in the Zone of Sensitivity. Uses not listed are to be considered prohibited.
 - A. All uses listed as permitted in the Primary Protection Zone.
 - B. All uses listed as permitted in the Secondary Protection Zone.
 - C. All uses, handling and storage, when in compliance with and allowed by Federal, State, and local laws and regulations.
- 2. Additional Restrictions. Additional restrictions are as follows:
 - A. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the Zone of Sensitivity.
 - B. Any person responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines.
 - C. No person shall abandon a public or privately owned well without notifying the Wellhead Protection Officer and Iowa Department of Natural Resources. All abandoned wells shall be properly plugged pursuant to the Iowa Administrative Code: IAC [567] Chapter 39.

148.07 EXCEPTIONS.

- 1. The following activities or uses are exempt from the provisions of this chapter:
 - A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
 - B. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.

- C. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
 - D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers (only in the Secondary Protection Zone and the Zone of Sensitivity).
 - E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
 - F. Consumer products located in the home which are used for personal, family, or household purposes.
 - G. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
 - H. The use of water treatment chemicals connected with the operation of the well or plant.
2. The use of structures or facilities existing at the time of the adoption of the ordinance codified in this chapter may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of said ordinance exemption by the City Council.
3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances and who is exempt from this chapter by law shall not be subject to the restrictions contained herein.
4. All requests for permits or special exceptions in the wellhead protection zones must be made in writing to the City Council. All requests must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

148.08 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the Zone of Protection Maps, the following rules shall apply:

- 1. Properties located wholly within one zone reflected on the applicable Zone of Protection Map shall be governed by the restrictions applicable to that zone.
- 2. For properties having parts lying within more than one zone, as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

148.09 ENFORCEMENT.

1. The Public Works Supervisor is designated as the Wellhead Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this chapter.
2. The Wellhead Protection Inspector shall be the Public Works Supervisor.
3. No building permit shall be issued which is a violation of the Iowa DNR "Separation Distance from Wells," a violation of this chapter, or a source of contamination for a City well.
4. No new underground tanks will be allowed for auxiliary fuel storage in the Primary or Secondary zones.
5. Any person who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided herein.

148.10 INSPECTIONS.

1. The Wellhead Protection Inspector shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer or Inspector to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.
3. The Wellhead Protection Officer or Inspector shall inspect each City well annually and shall maintain an inventory, if applicable, of all hazardous substances that exist within the Primary and Secondary Protection Zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector, as provided under 148.05(2)(C).

148.11 NOTICE OF VIOLATION, HEARING AND PENALTIES. Whenever an officer or an inspector determines that there is a violation of this chapter, said official shall give notice thereof in the manner hereinafter provided. A notice of violation shall:

1. Be in writing.
2. Be dated and signed by the officer or inspector.
3. Specify the violation or violations.
4. State that said violations shall be corrected within 10 days of the date on which the inspector issued the notice of violation.

Failure of the responsible persons to correct the violation within 10 days of the date of issue of the notice of violation shall result in the following fines: (i) first notice of violation - \$1,000.00; (ii) second notice of violation - \$5,000.00; (iii) third notice of violation - \$10,000.00.

148.12 INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances within the wellhead protection zones, as

indicated on the Zone of Protection Maps, continues to operate in violation of the provisions of this chapter, then the City may file an action for injunctive relief in the court of jurisdiction.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

150.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

(Code of Iowa, Sec. 364.12[3d])

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half inches in height and of a contrasting color with their background.

(Code of Iowa, Sec. 364.12[3d])

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

(Code of Iowa, Sec. 364.12[3b & h])

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CHAPTER 155

BUILDING CODES

155.01 Title	155.08 Plumbing Code
155.02 Administrative Provisions	155.09 Electrical Code
155.03 Adoption of Building Codes	155.10 Fire Code
155.04 Building Code	155.11 Property Maintenance Code
155.05 Residential Code	155.12 Energy Conservation Code
155.06 Mechanical Code	155.13 Existing Building Code
155.07 Fuel Gas Code	155.14 Swimming Pool Spa Code

155.01 TITLE. This chapter shall be known as the Building Codes of the City of Maxwell, Iowa, may be cited as such, and will be referred to herein as the “Maxwell Building Code(s).”

155.02 ADMINISTRATIVE PROVISIONS.

1. Administration of this chapter shall be as provided in this section and in the following sections of the several codes named, which are hereby adopted by reference, to provide procedures for local enforcement of the codes constituting the Building Codes.
2. The Building Official shall be appointed by the Mayor, subject to approval of the City Council, for the enforcement of the Building Codes and such other ordinances as shall be assigned to the Building Official. The Building Official shall also perform such other duties as may be required by the Mayor or Council.
3. The Building Official shall be accountable for the issuance of all applicable permits under this chapter and shall have the power to render interpretations of the Building Codes and to adopt and enforce rules and regulations supplemental to the Building Codes, subject to approval of the Council, as the Building Official deems necessary in order to clarify the application of the provisions of the Building Codes. Such rules, regulations, and interpretations shall be in conformity with the intent and purpose of this chapter.

155.03 ADOPTION OF BUILDING CODES. Pursuant to published notice and public hearing, as required by law, the following codes are hereby adopted as, and constitute, the Building Codes of the City of Maxwell, Iowa, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City, and the same are by this reference incorporated herein as fully and completely as if set forth in full herein.

155.04 BUILDING CODE. The provisions of the *International Building Code*, 2015 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Building Code, hereinafter referred to as “this code”.”
2. Section 101.4.1 Gas. Delete “International” and insert in lieu thereof “Maxwell”.

3. Section 101.4.2 Mechanical. Delete “International” and insert in lieu thereof “Maxwell”.
4. Section 101.4.3 Plumbing. Delete “International” and insert in lieu thereof “Maxwell”.
5. Section 101.4.4 Property maintenance. Delete “International” and insert in lieu thereof “Maxwell”.
6. Section 101.4.5 Fire prevention. Delete “International” and insert in lieu thereof “Maxwell”.
7. Section 101.4.6 Energy. Delete “International” and insert in lieu thereof “Maxwell”.
8. Section 101.4.7 Existing buildings. Delete “International” and insert in lieu thereof “Maxwell”.
9. Section 101.4 Referenced Codes. Add Subsection 101.4.8: “101.4.8 Electrical. The provisions of the Maxwell Electrical Code shall apply to the installation, alteration, repair, and replacement of electrical systems, including equipment, appliances, fixtures, fittings, and appurtenances.”
10. Section 104.11 Alternative materials, design and methods of construction and equipment. Add Subsection 104.11.3: “104.11.3 Manufactured home installation. The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes.”
11. Section 105.2 Work exempt from permit. Building Item #2. Delete existing text.
12. Section 105.2 Work exempt from permit. Building Item #6. Delete existing text and insert: “Sidewalks and driveways located entirely on private property, and not more than 30 inches above adjacent grade, and not over any basement or story below, and not part of an accessible route.
13. Section 107.3.1 Approval of construction documents. Delete this section.
14. Section 903.4.2 Alarms. Delete existing text and insert: “An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.”
15. Section 1009.2 Continuity and components. Add Item Number 11: “11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces.”
16. Section 1010.1.6 Landings at doors. Add Subsection 1010.1.6.1: “1010.1.6.1 Landing frost protection. Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection.”
17. Section 1028.5 Access to a public way. Add at the end of the section: “Components of exterior walking surfaces shall be hard-surfaced.”
18. Section 1030.5 Window wells. Add Subsection 1030.5.3: “1030.5.3 Window well drainage. All window wells shall be provided with approved drainage.”

- 19. Section 1301.1.1 Criteria. Delete “International” and insert in lieu thereof “Maxwell”.
- 20. Section 1612.3 Establishment of flood hazard areas. Insert: “City of Maxwell, Iowa” and “as adopted in City of Maxwell Code of Ordinances Chapter 160”.
- 21. Section 1809.5 Frost protection, Exception 2. Delete existing text and insert: “Area of 1,000 square feet or less for light-frame construction or 400 square feet for other than light-frame construction.
- 22. Section 1809.7 Prescriptive footings for light-frame construction. Delete existing Table 1809.7 and all footnotes and insert:

**“Table 1809.7
Prescriptive Footings Supporting Walls of Light-Frame Construction^{a,b,c,d,e,f}**

Number of floors supported by the footing ^g	Thickness of foundation walls (inches), concrete	Thickness of foundation walls (inches), concrete block	Width of footing (inches)	Thickness of footing (inches)
1	8	8	16	8
2	8	8	16	8
3	10	12	18	12

- a. Depth of perimeter footings shall be at least 42” below final grade
 - b. The ground under the floor shall be permitted to be excavated to the elevation of the top of the footing.
 - c. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
 - d. Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
 - e. Foundation walls shall have a minimum of #4 reinforcement bars 18” on center in each direction.
 - f. Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
 - g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.”
23. Section 2902.6 Small Occupancies. Add at the end of the section: “Water dispensers in accessible locations and within accessible reach ranges may be substituted for the required drinking fountain in business occupancies determined to require only one drinking fountain by occupant load.”

155.05 RESIDENTIAL CODE. The provisions of the *International Residential Code for One-and Two-Family Dwellings*, 2015 edition, as published by the International Code Council, except for Part VII—Plumbing, and Part VIII—Electrical; and with the addition of Appendix Chapters G, H, and J, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions:

- 1. Section R101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Residential Code, hereinafter referred to as “this code”.”
- 2. Section 104.11 Alternative materials, design and methods of construction and equipment. Add Subsection 104.11.2: “104.11.2 Manufactured home installation. The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes.”
- 3. Section R105.2 Work exempt from permit. Building Item #2. Delete existing text.
- 4. Section R105.2 Work exempt from permit. Building Item #5. Delete existing text and insert: “Sidewalks and driveways located entirely on private property.

5. Section R106.3.1 Approval of construction documents. Delete this section.
6. Table R301.2(1) Climatic and Geographic Design Criteria. Amend Table 301.2(1) to include the following values:

Ground Snow Load:	25 PSF
Wind Speed (mph):	115
Topographic effects:	No
Special wind region:	No
Wind-borne debris zone:	No
Seismic Design Category:	A
Weathering:	Severe
Frost line depth:	42"
Termite:	Moderate to Heavy
Winter Design Temp:	-5°F
Ice Barrier Underlayment Required:	Yes
Flood Hazards:	February 20, 2008 Flood Insurance Study, FIRM Panel 391
Air Freezing Index:	1896
Mean Annual Temp:	48.2°F
7. Section R303.3 Bathrooms. Delete existing text and insert: Bathrooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 CFM for intermittent ventilation or 20 CFM for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside of the dwelling.
8. Section R310.2.4 Emergency escape and rescue openings under decks and porches. Add at the end of the section: "All cantilevered construction elements shall be regulated in accordance with this section."
9. Section R311.3.2 Floor elevations for other exterior doors, Exception. Delete "two" and insert in lieu thereof "three".
10. Section R313.1 Townhouse automatic fire sprinkler systems. Add Exceptions #2 and #3: "2. Townhouse structures that contain eight or fewer dwelling units. 3. Townhouse structures in which the gross finished and unfinished floor area on all levels, including basements and exclusive of attached garages, is less than 18,000 square feet."
11. Section R313.2 One- and two-family dwellings automatic fire systems. Add Exception #2: "2. Dwellings that do not exceed 8,000 square feet or more of enclosed floor space on all levels, including basements and exclusive of attached garages."
12. Section R326.1 General. Delete "International" and insert in lieu thereof "Maxwell".
13. Section R401.2.1 Conventional light frame wood construction. Add Subsection R401.2.1 and Table R401.2.1: "R401.2.1 Conventional light frame wood construction.

Footings and foundations of buildings of conventional light frame wood construction may be designed in accordance with Table R401.2.1.

Table R401.2.1
Prescriptive Footings Supporting Walls of Light-Frame Construction^{a,b,c,d,e,f}

Number of floors supported by the footing ^g	Thickness of foundation walls (inches), concrete	Thickness of foundation walls (inches), concrete block	Width of footing (inches)	Thickness of footing (inches)
1	8	8	16	8
2	8	8	16	8
3	10	12	18	12

- a. Depth of perimeter footings shall be at least 42" below final grade
- b. The ground under the floor shall be permitted to be excavated to the elevation of the top of the footing.
- c. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
- d. Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
- e. Foundation walls shall have a minimum of #4 reinforcement bars 18" on center in each direction.
- f. Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
- g. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor."

14. Section R403.1.4.1 Frost protection, Exception #1. Delete "600" and insert in lieu thereof "1,000".

15. Chapter 11 Energy Efficiency. Delete all sections except N1101.1.

16. Section N1101.1.1 Criteria. Add Subsection N1101.1.1: "N1101.1.1 Criteria. Buildings regulated by this code shall be designed and constructed in accordance with the Maxwell Energy Conservation Code."

155.06 MECHANICAL CODE. The provisions of the State of Iowa Administrative Rule 641—Chapter 61 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Maxwell Mechanical Code. References to section numbers will be to sections in the *International Mechanical Code*.

1. Section 106.4.6 Retention of construction documents. Delete the final sentence of this section.
2. Section 106.5.2 Fee schedule. Delete existing text and insert: "A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the applicable governing authority."
3. Section 106.5.3 Fee refunds. Delete existing text and insert: "The code official is authorized to establish a refund policy."
4. Section 108.4 Violation penalties. Delete existing text and insert: "Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law."
5. Section 108.5 Stop work orders. Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

155.07 FUEL GAS CODE. The provisions of the *International Fuel Gas Code*, 2015 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Fuel Gas Code, hereinafter referred to as “this code”.”
2. Section 106.5.1 Approved construction documents. Delete this section.
3. Section 106.5.6 Retention of construction documents. Delete the final sentence of this section.
4. Section 106.6.2 Fee schedule. Delete existing text and insert: “A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the applicable governing authority.”
5. Section 106.6.3 Fee refunds. Delete existing text and insert: “The code official is authorized to establish a refund policy.”
6. Section 108.4 Violation penalties. Delete existing text and insert: “Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.”
7. Section 108.5 Stop work orders. Delete the final sentence of this section and insert in lieu thereof: “Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”

155.08 PLUMBING CODE. The provisions of the State of Iowa Administrative Rule 641—Chapter 25 with the addition of Chapter 1, except Sections 101 and 102, Appendix A, Appendix B, Appendix C, and Appendix D of *the Uniform Plumbing Code*, 2018 edition, as published by the International Association of Plumbing and Mechanical Officials, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Maxwell Plumbing Code. References to code sections will be to sections of the Uniform Plumbing Code.

1. Section 104.4.1 Approved Plans or Construction Documents. Delete this section.
2. Section 104.4.6 Retention of Plans. Delete the final sentence of this section.
3. Section 104.5 Fees. Delete “and as set forth in the fee schedule, Table 104.5.”.
4. Section 105.2.6 Reinspections. Delete “To obtain reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table 104.5.”.

155.09 ELECTRICAL CODE. The provisions of the State of Iowa Administrative Rule 661—Chapter 504 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the Maxwell Electrical Code:

1. Reserved.

155.10 FIRE CODE. The provisions of the *International Fire Code*, 2015 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Fire Code, hereinafter referred to as “this code”.”
2. Section 105.4.6 Retention of construction documents. Delete the final sentence of this section.
3. Section 109.4 Violation penalties. Delete existing text and insert: “Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be subject to penalties as prescribed by law.”
4. Section 111.4 Failure to comply. Delete existing text and insert: “Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”
5. Section 903.4.2 Alarms. Delete existing text and insert: “An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.”
6. Section 1009.2 Continuity and components. Add Item Number 11: “11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces.”
7. Section 1010.1.6 Landings at doors. Add Subsection 1010.1.6.1: “1010.1.6.1 Landing frost protection. Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection.”
8. Section 1028.5 Access to a public way. Add at the end of the section: “Components of exterior walking surfaces shall be hard-surfaced.”
9. Section 1030.5 Window wells. Add Subsection 1030.5.3: “1030.5.3 Window well drainage. All window wells shall be provided with approved drainage.”

155.11 PROPERTY MAINTENANCE CODE. The provisions of the *International Property Maintenance Code*, 2015 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Property Maintenance Code, hereinafter referred to as “this code”.”
2. Section 102.3 Application of other codes. Delete existing text and insert: “Repairs, additions, or alterations to a structure, or change of occupancy, shall be done in accordance with the procedures and provisions, as applicable, of the Maxwell Building Code, Maxwell Energy Conservation Code, Maxwell Existing Building Code, Maxwell Fire Code, Maxwell Fuel Gas Code, Maxwell Electrical Code, Maxwell Mechanical Code, Maxwell Residential Code, and Maxwell Plumbing Code.”
3. Section 302.4 Weeds. Insert: “12 inches”.

4. Section 304.14 Insect Screens. Insert: “April 1” and “October 31”.
5. Section 602.3 Heat supply. Insert: “October 1” and “April 30”.
6. Section 602.4 Occupiable work spaces. Insert: “October 1” and “April 30”.

155.12 ENERGY CONSERVATION CODE. The provisions of the *International Energy Conservation Code* as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in the Maxwell Building Code and these regulations shall be known as the Maxwell Energy Conservation Code. Construction or work for which a permit is required shall be subject to 3rd party inspections. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. Any portion that does not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

155.13 EXISTING BUILDING CODE. The provisions of the *International Existing Building Code*, 2015 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Existing Building Code.
2. Section 106.3.1 Approval of construction documents. Delete this section.
3. Section 1401.2 Applicability. Insert “January 1, 2020”.

155.14 SWIMMING POOL AND SPA CODE. The provisions of the *International Existing Building Code*, 2015 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: “These regulations shall be known as the Maxwell Swimming Pool and Spa Code, hereinafter known as “this code”.
2. Section 105.5.6 Retention of construction documents. Delete the final sentence of this section.
3. Section 105.6.2 Fee schedule. Delete this section.
4. Section 105.6.3 Fee refunds. Delete existing text and insert: “The building official is authorized to establish a refund policy.”
5. Section 107.4 Violation penalties. Delete existing text and insert: “Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law.”
6. Section 107.5 Stop work order. Delete the final sentence of this section and insert in lieu thereof: “Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.”

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CHAPTER 156

SIGNS, AWNINGS AND CANOPIES

156.01 Purpose

156.02 Definition

156.03 Erection of Signs, Awnings and Canopies

156.04 Clearance of Signs

156.05 Clearance of Canopies

156.06 Movable Awnings, Clearance and Erection

156.07 Signs Within Residential Area

156.08 Inspection

156.01 PURPOSE. The purpose of this chapter is to provide that all signs, awnings, and canopies are constructed and kept in a safe condition and that signs are not located as to cause a safety hazard.

156.02 DEFINITION. For use in this chapter, “sign” means any structure or part thereof or device attached thereto or painted or represented thereon, which displays or includes any letter, word, banner, flag, pennant, insignia device, or representation used as, or which is in the nature of an announcement, direction, or advertisement. The word “sign” includes the word “billboard” but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.

156.03 ERECTION OF SIGNS, AWNINGS AND CANOPIES. All signs, awnings, and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from other cause. No sign or canopy shall be erected or maintained extending over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light or other traffic sign or signal.

156.04 CLEARANCE OF SIGNS. Projecting signs shall have the clear space of not less than 10 feet below all parts of the sign provided that the signs extend two feet or less from the building and contain three square feet or less of exposed surface area on one side. Projecting signs extending into the limits of an alley shall have a clear space of not less than 16 feet above the alley grade.

156.05 CLEARANCE OF CANOPIES. All projecting canopies or marquees shall have the clear space of not less than seven feet below all parts of the canopy or marquee.

156.06 MOVABLE AWNINGS, CLEARANCE AND ERECTION. Movable awnings supported throughout on metal frames may extend out over the sidewalk portion of the public street a distance of not to exceed two-thirds the width of the sidewalk space, provided that every such awning frame is not less than seven feet, six inches from the sidewalk immediately below and that any fringe attached to the awning is not less than seven feet from the sidewalk immediately below.

156.07 SIGNS WITHIN RESIDENTIAL AREA. No advertising signs of any kind are allowed within any area zoned for residential purposes; provided, however, professional cards or signs setting forth name, occupation, and other pertinent information of a permissive occupation for such zone containing an area of not to exceed six square feet may be erected upon private property or as otherwise restricted by zoning regulations.

156.08 INSPECTION. The Building Inspector or other officer designated by the Mayor may inspect, or cause to be inspected, any sign, canopy, or awning that extends over any sidewalk, street, alley, or other public way. If any such sign or canopy is found to be insecurely fastened or if such sign or canopy is found to obstruct the view of any motorist or pedestrian, or any traffic light or other traffic signal, the inspector or other officer shall report this fact to the owner of the sign, canopy, or marquee, or to the owner or occupant of the premises upon which it is fastened. If the condition of the sign is not corrected to comply with the provisions of this chapter within 10 days after such notice, it is to be torn down by the Fire Department or other City employees, as directed by the Mayor. The Council is authorized to have signs and awnings inspected, to notify the owners of changes and repairs needed, and to order the removal of signs, awnings, and canopies not conforming to this chapter.

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CHAPTER 160

FLOOD PLAIN MANAGEMENT

160.01 Definitions

160.02 Statutory Authority, Findings of Fact and Purpose

160.03 General Provisions

160.04 Administration

160.05 Flood Plain Management Standards

160.06 Variance Procedures

160.07 Nonconforming Uses

160.08 Penalties for Violation

160.09 Amendments

160.01 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year (and is also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 160.05(1)(D)(1) of this chapter; and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and
 - D. The enclosed area is not a basement as defined in this section.
7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first flood plain management regulations adopted by the community.

8. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first flood plain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also include recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “500-year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. “Flood insurance rate map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate 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. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
17. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing and flood plain management regulations.
18. “Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
19. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

20. “Floodway fringe” means those portions of the Special Flood Hazard Area outside the floodway.
21. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. “Historic structure” means any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either: (i) an approved state program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
23. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of “enclosed area below lowest floor” are met.
24. “Maximum damage potential uses” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than \$500.00.
26. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first flood plain management regulations adopted by the community.
27. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first flood plain management regulations adopted by the community.
28. “Recreational vehicle” means a vehicle which is:
 - A. Built on a single chassis;

- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
32. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.
33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.
34. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

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 a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

36. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in paragraph 2(A) of this section with provisions designed to:

- A. 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.
- B. 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.
- C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

1. **Lands to Which Ordinance Apply.** The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) Panel 391, dated February 20, 2008, which was prepared as part of the Story County and Incorporated Areas, City of Maxwell Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Story County and Incorporated Areas, City of Maxwell, Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering flood plain management regulations.
2. **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
3. **Abrogation and Greater Restrictions.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
4. **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
5. **Warning and Disclaimer of Liability.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
6. **Severability.** If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 ADMINISTRATION.

1. The Building Inspector shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

A. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

B. Review flood plain 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 flood plain construction.

C. Record and maintain a record of: (i) the elevation (in relation to National Geodetic Vertical Datum) 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 flood proofed.

D. 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.

E. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

F. 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.

G. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

H. Maintain the accuracy of the community's Flood Insurance Rate Maps when:

(1) Development placed within the Floodway (Overlay) District results in any of the following:

- a. An increase in the Base Flood Elevations, or
- b. Alteration to the floodway boundary.

(2) 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

(3) Development relocates or alters the channel.

Within six 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.

I. Perform site inspections to ensure compliance with the standards of this chapter.

2. Flood Plain Development Permit.
 - A. Permit Required. A flood plain 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, 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 buildings and building 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 National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
 - (7) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.
 - C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the County Board of Adjustment.
 - D. Construction and Use to be as Provided in Application and Plans. Flood plain development permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 FLOOD PLAIN MANAGEMENT STANDARDS.

1. General Flood Plain Standards. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the 100-year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where: (i) the bridge or culvert is located on a stream that drains less than 100 square miles; and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)b, Iowa Administrative Code.

A. All Development. All development within the areas of significant flood hazard 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.
- (4) Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Nonresidential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors

associated with the base flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum] to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures:

(1) Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings, with positioning on at least two 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.
- 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 shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or flood proofed to a minimum of one foot above the base flood elevation.)

E. Factory-Built Homes:

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems:

(1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year 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 Hazardous Materials. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.

H. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

I. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

J. Subdivision. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the area of significant flood hazard.

K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than 1 foot above the BFE 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 resist flotation, collapse and lateral movement.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of paragraph 1(D) of this section.

(2) Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of paragraph 1(E) of this section 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 paragraph 1(E) of this section regarding anchoring and elevation of factory-built homes.

M. Pipeline Crossing. 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 Uses. All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 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 National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2 percent chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

2. Special Floodway Provisions. In addition to the General Flood Plain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. No use shall be permitted in the floodway 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 uses within the floodway 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 use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Flood Plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Buildings, 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 within the time available after flood warning.

G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.06 VARIANCE PROCEDURES.

1. The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

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 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

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 buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors Upon Which the Decision of the Council Shall Be Based. In passing upon applications for Variances, the Council 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 flood plain management program for the area.
 - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
 - M. Such other factors which are relevant to the purpose of this chapter.
3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:
- A. Modification of waste disposal and water supply facilities.
 - B. Limitation of periods of use and operation.
 - C. Imposition of operational controls, sureties, and deed restrictions.
 - D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
 - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council 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.

160.07 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.08 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days.. Nothing herein contained prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

165.01 Title	165.09 R-2 Mixed Residential District
165.02 Definitions	165.10 R-3 Multi-Family Residential District
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165.04 Official Zoning Map	165.12 M-1 Industrial District
165.05 General Zoning Regulations	165.13 NC Neighborhood Conservation (Overlay) District
165.06 R-E Estate Residential District	165.14 Supplementary District Regulations
165.07 R-S Suburban Residential District	165.15 Conformance
165.08 R-1 Single-Family Residential District	165.16 Zoning Administration and Enforcement

165.01 TITLE. This chapter shall be known and may be cited as the “Zoning Ordinance of the City of Maxwell, Iowa.”

165.02 DEFINITIONS. For the purpose of this chapter, the word “building” includes the word “structure,” and the following terms and words are defined.

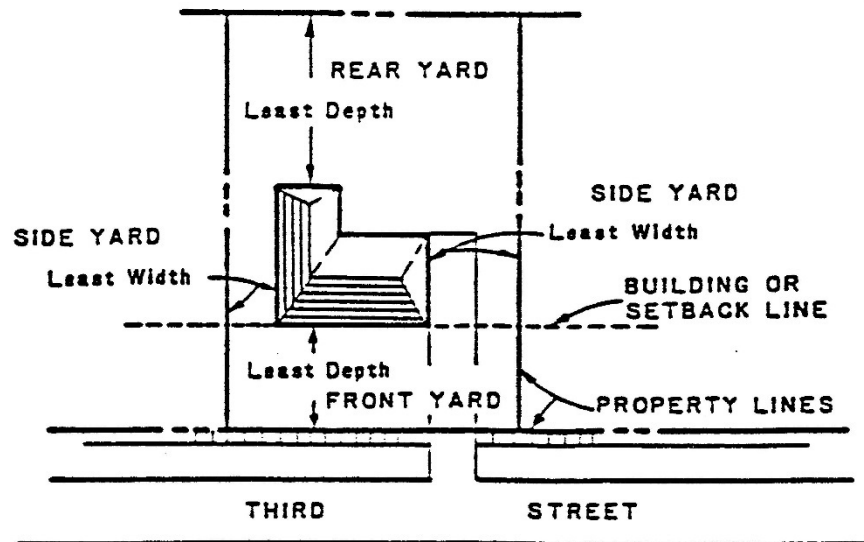
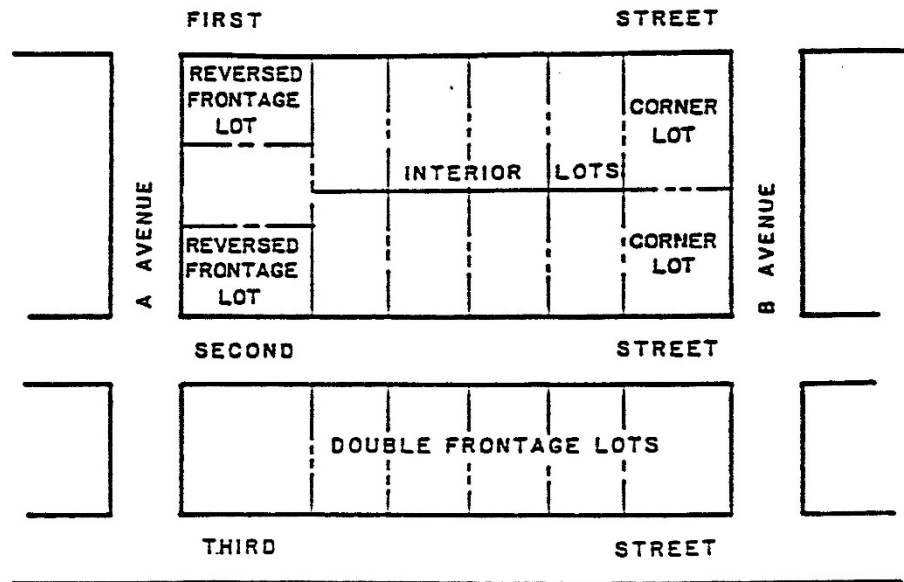
1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building or land on the same lot or parcel and serving a purpose customarily incidental to the use of the principal building or use of the land.
2. “Alterations, structural” means any change in the supporting members of a building such as bearing walls, columns, or girders.
3. “Apartment” means a room or suite of rooms in a multiple dwelling intended or designed for use as a residence by a single family.
4. “Apartment house” means a building arranged, intended, or designed to be occupied by three or more families living independently of each other.
5. “Basement” means a story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulations.
6. “Basement house” means a house consisting primary of a basement only and built with the purpose of adding a story and a roof at a future date.
7. “Board” means the Board of Adjustment of the City.
8. “Boarding house” means a building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for not more than three persons (“boarders”).
9. “Building” means any structure having a roof supported by walls or columns designed or built for the enclosure, shelter or housing of persons, animals, or property.
10. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
11. “Building line” or “setback line” means the outer boundary of a building established by the location of its exterior walls or any projections other than steps, unenclosed balconies, or unenclosed porches.

12. “Cellar” means that portion of a building having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
13. “Dwelling” means any building or portion thereof which is designed for and used exclusively for residential purposes.
14. “Dwelling, single-family” means a building designed for occupied exclusively by one family.
15. “Dwelling, two-family” means a building designed for or occupied exclusively by two families.
16. “Dwelling, multiple” means a building designed for or occupied exclusively by more than two families.
17. “Family” means one or more persons occupying a premises and living as a single housekeeping unit having common cooking facilities.
18. “Frontage” means all the property on one side of a street between two lot lines intersecting the street measured along the line of the street.
19. “Garage, private” means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles to be stored may be a commercial vehicle of not more than two-ton capacity.
20. “Garage, public” means a building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
21. “Garage, storage” means a building or portion thereof designed or used exclusively for term storage, by prearrangement, of motor-driven vehicles or other property, as distinguished from daily storage of motor-driven vehicles, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.
22. “Home occupation” means a professional or business activity that results in a product or service and is carried out or conducted for gain by the resident as an accessory use on the resident’s premises.
23. “Institution” means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.
24. “Loading space” means a space within the main building or on the same lot providing for the standing, loading, or unloading of merchandise or material from commercial vehicles having a minimum dimension of 10 by 25 feet.
25. “Lot” means a parcel of land occupied or intended for occupancy by one main building, together with its accessory buildings, officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.
26. “Lot, corner” means a lot abutting upon two or more streets at their intersections.
27. “Lot, depth of” means the mean horizontal line between the front lot line and the rear lot line.

28. "Lot, double frontage" means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
29. "Lot interior" means a lot other than a corner lot.
30. "Lot of record" means a lot that is a part of a subdivision, the plat of which has been recorded in the office of the Story County Recorder.
31. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.
32. "Lot, reversed frontage" means a corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
33. "Neighborhood Conservation (Overlay) (NC) District" means a supplemental zoning district overlaying one or more (primary) zoning districts, which further defines permitted uses within the NC District.
34. "Nursing home" means a home for the aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept, and provided with food, or shelter and care, for compensation, but not including hospitals, clinics, or similar institutions devoted to the diagnosis, treatment, or care of the sick or injured.
35. "Parking space" means a granular or paved surfaced area, maintained in a dust-free manner, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 180 square feet, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
36. "Retirement home" means a multi-family dwelling having three or more living units at which central services such as laundry, recreation, and community facilities are provided, but no professional health care is provided on the premises.
37. "Setback line" is defined under "building line."
38. "Sign" means any structure (or part thereof or device attached thereto or painted or represented thereon) which displays or includes any letter, word, model, banner, flag, pennant, insignia, device, or representation used as (or which is in the nature of) an announcement, direction, or advertisement. The word "sign" includes the word "billboard" but does not include the flag, pennant, or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event.
39. "Story" means the portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
40. "Story, half" means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.
41. "Street" means a public or private thoroughfare that affords the principal means of access to abutting property.

42. “Structure” means anything constructed or erected, the use of which requires more or less permanent location on the ground, including but not limited to buildings, walls, fences, signs, and billboards.
43. “Yard” or “separate yard” means an open space on the same lot with a building and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.
44. “Yard, front” means a yard extending across the side of the lot facing the street and being the minimum horizontal distance between the lot line on that side and the setback. Corner lots shall have two front yards.
45. “Yard, rear” means a yard extending across the side of the lot opposite the street and being the horizontal distance between the lot line on that side and the rear setback. On all lots the rear yard shall be in the rear of the front yard.
46. “Yard, side” means a yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building.

LOT AND YARD DEFINITIONS



[The next page is 861]

165.03 DISTRICTS ESTABLISHED. The City is hereby divided into zoning districts, designated as follows:

1. Primary Districts:
 - R-E Estate Residential
 - R-S Suburban Residential
 - R-1 Single-Family Residential
 - R-2 Mixed Residential
 - R-3 Multi-family Residential
 - C-1 Commercial
 - M-1 Industrial
2. Overlay Districts:
 - NC Neighborhood Conservation

165.04 OFFICIAL ZONING MAP. The location and boundaries of the above-mentioned districts are shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The Official Zoning Map shall be on file in the office of the City Clerk and shall be final authority as to the current zoning status of the land, water areas, buildings, and other structures in the City.

1. Changes in Map. No changes in the Official Zoning Map shall be made except as may be required by amendments to this chapter. If required, such changes shall be prominently made and the ordinance number and date of change shall be noted on the Map.[†]
2. Interpretation of Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.
 - A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 - B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - C. Boundaries indicated as approximately following City limits shall be construed as following City limit lines.
 - D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks; boundaries indicated as following railroad right-of-way lines shall be construed as following such right-of-way lines.
 - E. Boundaries indicated as following shorelines shall be construed to follow such shorelines; and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
 - F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E herein shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.

[†] (See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)

G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections A through F herein, the Board of Adjustment shall interpret the district boundaries.

165.05 GENERAL ZONING REGULATIONS.

1. Regulations Uniformly Applied. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land, particularly as hereinafter provided.
2. Uses and Structures, Conformity Required. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
3. Height, Density or Yards. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required or in any other manner contrary to the provisions of this chapter.
4. Separate Yards; Open Space; Off-Street Parking Required. No part of a yard or other open space or off-street parking or loading space required in connection with any building, for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
5. Minimum Yards; Lot Areas. No yard or lot existing at the time of the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date hereof shall meet at least the minimum requirements established by this chapter.
6. Newly Annexed Areas. All territory that may hereafter be annexed to the City shall be classified in the R-E Residential District until otherwise classified; provided, however, the Planning and Zoning Commission may recommend the appropriate district classification prior to annexation, and after proper notice and public hearing, the territory, upon annexation, may be immediately so classified.
7. Home Occupations. The regulations imposed by this section are intended to allow home occupations that: (i) by their design, construction, and operation, adequately safeguard the health, safety, and welfare of the occupants and surrounding property; (ii) do not increase congestion in the public streets; and (iii) do not diminish or impair established property values in surrounding areas. Home occupation use may be granted and shall continue as long as the following conditions are met.
 - A. The use shall not be conducted in any building on the premises other than the building that is used by the occupant as the private dwelling or private garage, provided that not more than 50 percent of the total floor area of the private garage is used for the home occupation.
 - B. There is no exterior indication of the home occupation (except as permitted in paragraph E below) or variation from the residential character of the structures.
 - C. There is no exterior storage or display of material or products. All materials or products utilized in conjunction with the home occupation must be stored or utilized within a completely enclosed building. Parking spaces needed for the conduct of a home occupation shall be provided off the street, in defined areas that are appropriately designed and surfaced for that purpose, and not

located within side or rear yard building setback areas. No more than two vehicles related to the home occupation shall be located on the property at one time. In case of vehicle repair services, only two vehicles shall be located and repaired on the property at one time and shall be located and repaired within a completely enclosed building.

D. No more than two individuals, in addition to the residents of the dwelling, shall be employed in the conduct of the home occupation.

E. Only one unlighted interior or exterior business sign, attached to the wall of the residence or garage shall be permitted. Such sign may not exceed two square feet per face.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference, or other nuisance in violation of nuisance or noise ordinances. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interferences in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

G. Delivery of all materials in the home occupation may only take place from 7:00 a.m. to 8:00 p.m.

H. The home occupation shall be granted a permit after a public hearing as required by this chapter. Such permit shall be valid as long as the conditions under which the permit was granted are being met by the permit holder.

8. Moving of Dwellings. If any dwelling is moved from one lot to another, it shall thereupon be made to conform to all the provisions of this chapter relative to dwellings hereafter erected.165.14

9. Interpretation of Provisions. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing higher standards shall govern.

10. Amendment Procedures; Fees.

A. Procedure. The regulations imposed and the districts created by this chapter may be amended from time to time by the City Council and no such amendments shall be made without public hearing before said Council and after a recommendation has been made upon the amendment by the Planning and Zoning Commission. Notice of the time and place of such hearing shall be published, as required by statute, in a newspaper having general circulation in the City. In case the Planning and Zoning Commission does not approve the change or, in the case of a written protest filed with the Council against such change signed by the owners of 20 percent or more of the area of the lots included in any proposed change or by the owners of 20 percent or more of the property that is located within 200 feet of the exterior boundaries of the property for which any change is proposed, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the Council.

B. Form of Application. The application for rezoning shall contain the following items:

- (1) The legal description and local address of the property.
- (2) The present zoning classification and the zoning classification requested for the property.
- (3) The existing use and proposed use of the property.
- (4) The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
- (5) A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
- (6) A plat showing the locations, dimensions, and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.

C. Application Fee. Before any action is taken upon an application as provided in this chapter, the applicant shall pay the City a fee set by Council resolution to cover the approximate costs of the procedure, and the applicant shall forthwith pay this amount to the credit of the General Revenue Fund of the City. The failure to approve the change shall not be construed as a reason for refunding the fee to the applicant.

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165.06 R-E ESTATE RESIDENTIAL DISTRICT. The Estate Residential District is intended to provide single-family housing on large lots, which will preserve and enhance the rural character and attractiveness of the area. It is intended that this designation: (i) provide a low density rural environment and life style; (ii) provide for limited development of areas in which soils or topography limit the agricultural uses; (iii) retain land with significant topographic or physical constraints, wooded areas, or a unique environment as open space; and (iv) allow a limited number of animals, including equestrian facilities.

1. Permitted Principal Uses and Structures.
 - A. Single-family detached dwellings.
 - B. Churches and similar places of worship.
 - C. Public, parochial or private schools, including elementary, junior high, and high schools.
 - D. Public or semi-public parks, open spaces, playground, or community buildings.
 - E. Agricultural uses, provided no retail sales are permitted and no offensive odors are created, subject to the limitations regarding animals under Animal Protection and Control of this Code of Ordinances.
2. Permitted Accessory Uses and Structures.
 - A. Private garages or carports.
 - B. Private swimming pools.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Accessory uses or structures clearly incidental and subordinate to one of the permitted uses or structures of this District, unless otherwise excluded.
 - E. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
 - F. Home occupations, as limited by Section 165.05.
 - G. Taking of boarders or the leasing of rooms by resident family, provided the total number of roomers and boarders does not exceed two.
3. Special Exceptions.
 - A. Railroads.
 - B. Public utilities.
 - C. Swimming pools, golf courses, and country clubs, except miniature courses or driving ranges operated for a profit.
4. Minimum Lot Area and Width.
 - A. All Principal Permitted Uses:
 - Area – 130,000 square feet
 - Width – 200 feet

5. Minimum Yard Requirements.
 - A. Dwellings:
 - Front – 50 feet
 - Rear – 50 feet
 - Side –25 feet each side
 - Street side, corner lot – 50 feet
 - B. All other principal permitted uses:
 - Front – 50 feet
 - Rear –50 feet
 - Side –50 feet, each side
 - Street side, corner lot – 50 feet
6. Maximum Height:
 - Dwelling – 2½ stories or 35 feet
 - Accessory Building – 2½ stories or 35 feet
7. Minimum Off-Street Parking and Loading Space.
 - A. Dwelling – 2 parking spaces for each dwelling unit.
 - B. Church – 1 space for every 6 seats in the main auditorium.
 - C. Schools and Public Buildings – 1 space for each classroom or office room plus 1 space for each 10 seats in the main auditorium, stadium, or place of public assembly.
8. Permitted Signs. The following signs shall be permitted.
 - A. Name plates not exceeding one square foot in area.
 - B. Sign for a home occupation as provided in Section 165.05.
 - C. Church or public bulletin boards not to exceed 24 square feet in area.
 - D. Temporary signs advertising the lease or sale of the premises not to exceed 12 square feet in area.

Any sign not conforming to the provisions of this chapter shall be made to conform or be removed within one year after the effective date hereof.

[The next page is 873]

165.07 R-S SUBURBAN RESIDENTIAL DISTRICT. The Suburban Residential District is intended to provide single-family housing on lots, which will preserve and enhance the suburban character and attractiveness of the area. It is intended that this designation: (i) provide a semi-rural environment and life style and (ii) retain land with significant topographic or physical constraints, wooded areas, or a unique environment as open space.

1. Permitted Principal Uses and Structures.
 - A. Single-family detached dwellings.
 - B. Churches and similar places of worship.
 - C. Public, parochial or private schools, including elementary, junior high, and high schools.
 - D. Public or semi-public parks, open spaces, playground, or community buildings.
2. Permitted Accessory Uses and Structures.
 - A. Private garages or carports.
 - B. Private swimming pools.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Accessory uses or structures clearly incidental and subordinate to one of the permitted uses or structures of this District, unless otherwise excluded.
 - E. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
 - F. Home occupations, as limited by Section 165.05.
 - G. Taking of boarders or the leasing of rooms by resident family, provided the total number of roomers and boarders does not exceed two.
3. Special Exceptions.
 - A. Railroads.
 - B. Public utilities.
 - C. Swimming pools, golf courses, and country clubs, except miniature courses or driving ranges operated for a profit.
4. Minimum Lot Area and Width.

All Principal Permitted Uses:
Area – 40,000 square feet
Width – 125 feet
5. Minimum Yard Requirements.
 - A. Dwellings:

Front – 30 feet
Rear – 30 feet

- Side – 10 feet each side
- Street side, corner lot – 30 feet
- B. All other principal permitted uses:
 - Front – 50 feet
 - Rear – 50 feet
 - Side – 50 feet
 - Street side, corner lot – 50 feet
- 6. Maximum Height:
 - Dwelling – 2½ stories or 35 feet
 - Accessory Building – 2½ stories or 35 feet
- 7. Minimum Off-Street Parking and Loading Space.
 - A. Dwelling – Two parking spaces for each dwelling unit.
 - B. Church – One space for every 6 seats in the main auditorium.
 - C. Schools and Public Buildings – One space for each classroom or office room plus one space for each 10 seats in the main auditorium, stadium, or place of public assembly.
- 8. Permitted Signs. The following signs shall be permitted.
 - A. Name plates not exceeding one square foot in area.
 - B. Sign for a home occupation as provided in Section 165.05.
 - C. Church or public bulletin boards not to exceed 24 square feet in area.
 - D. Temporary signs advertising the lease or sale of the premises not to exceed 12 square feet in area.

Any sign not conforming to the provisions of this chapter shall be made to conform or be removed within one year after the effective date hereof.

[The next page is 175]

165.08 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT. The R-1 District is intended to provide for low-density residential areas of the City with one-family detached dwellings. The following regulations shall apply, except as otherwise provided herein.

1. Permitted Principal Uses and Structures.
 - A. Single-family dwellings.
 - B. Churches and similar places of worship.
 - C. Public, parochial, or private schools, including elementary, junior high, and high schools.
 - D. Public or semi-public parks, open spaces, playgrounds, or community buildings.
 - E. Agricultural uses, provided no retail sales are permitted and no offensive odors are created, subject to the limitations regarding animals under Animal Protection and Control of this Code of Ordinances.
2. Permitted Accessory Uses and Structures.
 - A. Private garages or carports.
 - B. Private swimming pools.
 - C. Private greenhouse not operated for commercial purposes.
 - D. Accessory uses or structures clearly incidental and subordinate to one of the permitted uses of structures of this District, unless otherwise excluded.
 - E. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
 - F. Home occupations, as limited by Section 165.05.
 - G. Taking of boarders or the leasing of rooms by the resident family, provided the total number of roomers and boarders does not exceed two.
3. Minimum Lot Area and Width.
 - A. Single-Family Dwelling:
Area – 10,000 square feet
Width – 75 feet
 - B. Other principal permitted uses:
Area – 25,000 square feet
Width – 150 feet
4. Minimum Yard Requirements.
 - A. Single Family Dwellings:
Front – 30 feet
Rear – 30 feet
Side – 8 feet each side
Street side, corner lot – 15 feet
 - B. Principal Permitted Uses:
Front – 40 feet

Rear – 40 feet
Side – 20 feet
Street side, corner lot – 30 feet

5. Maximum Height:
 - All principal permitted uses – 2½ stories or 35 feet
 - Accessory Building – 18 feet or as approved by exception by the Board of Adjustment
6. Minimum Off-Street Parking and Loading Space.
 - A. Dwelling – 2 parking spaces for each dwelling unit.
 - B. Church – 1 space for every 6 seats in the main auditorium.
 - C. Schools – 1 space for each classroom or office room plus 1 space for every 10 seats in the main auditorium, stadium, or place of public assembly.
7. Permitted Signs. The following signs shall be permitted.
 - A. Name plates not to exceed one square foot.
 - B. Sign for a home occupation as provided in Section 165.05.
 - C. Church or public bulletin boards not to exceed 24 square feet in area.
 - D. Temporary signs advertising the lease or sale of the premises, not to exceed 12 square feet in area.

Any sign not conforming to the provisions of this chapter shall be made to conform or be removed within one year after the effective date hereof.

[The next page is 881]

165.09 R-2 MIXED RESIDENTIAL DISTRICT. The R-2 District is intended and designed to provide for low-density residential areas of the City now developed with one- and two-family dwellings, and areas where similar residential development seems likely to occur. The following regulations shall apply, except as otherwise provided herein:

1. Permitted Principal Uses and Structures.
 - A. Single-family dwellings.
 - B. Two-family dwellings.
 - C. Churches and similar places of worship.
 - D. Public, parochial, or private schools, including elementary, junior high, and high schools.
 - E. Public or semi-public parks, open spaces, playgrounds, or community buildings.
 - F. Private nursery schools and day care centers.
 - G. Clinics, including veterinarian clinics, provided such clinics maintain the residential character of the neighborhood.
2. Permitted Accessory Uses and Structures.
 - A. Private garages or carports.
 - B. Private swimming pools.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Accessory uses or structures clearly incidental and subordinate to one of the permitted uses of structures of this District, unless otherwise excluded.
 - E. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
 - F. Home occupations, as limited by Section 165.05.
 - G. Taking of boarders or the leasing of rooms by the resident family, provided the total number of roomers and boarders does not exceed two.
3. Special Exceptions.
 - A. Hospitals or sanitariums, except animal hospitals.
 - B. Railroads.
 - C. Public utilities.
 - D. Mortuary or funeral homes.
 - E. Rooming and boarding houses.
 - F. Clinics, including veterinarian clinics, provided such clinics maintain the residential character of the neighborhood.
4. Minimum Lot Area and Width.
 - A. Single-Family Dwelling:
Area – 9,000 square feet

Width – 65 feet

- B. Two-Family Dwelling:
Area – 14,000 square feet
Width – 100 feet
- C. All other principal permitted uses have the same minimums lot area and width as required in the R-1 district.
5. Minimum Yard Requirements.
- A. Dwellings:
Front – 25 feet
Rear: Dwelling – 25 feet permissible accessory buildings, no minimum requirement, when adjacent to an alley, otherwise 6 feet
Side: Dwellings and permissible accessory buildings – 15 feet total both sides, 7 feet minimum one side
Street side, corner lot, 15 feet
- B. All other principal permitted uses:
Front – 40 feet
Rear – 40 feet
Side – 20 feet each side
Street side, corner lot – 30 feet
6. Maximum Height:
All principal permitted uses – 2½ stories or 35 feet
Accessory Building – 18 feet or as approved by exception by the Board of Adjustment
7. Minimum Off-Street Parking and Loading Space.
- A. Dwellings – 2 parking spaces for each dwelling unit plus one space for every 2 roomers.
- B. Church – 1 space for every 6 seats in the main auditorium.
- C. Schools and Public Buildings – 1 space for each classroom or office room plus 1 space for every 10 seats in the main auditorium, stadium, or place of public assembly.
- D. Mortuary or Funeral Home – 1 space for every 100 square feet of floor area.
8. Permitted Signs. The following signs shall be permitted.
- A. Signs not exceeding 6 square feet in area.
- B. Church or public bulletin boards not to exceed 24 square feet in area.
- C. Temporary signs advertising the lease or sale of the premises, not to exceed 12 square feet in area.

Any sign not conforming to the provisions of this chapter shall be made to conform or be removed within one year after the effective date hereof.

[The next page is 889]

165.10 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT. The R-3 District is intended for certain medium-density residential areas of the City with multi-family dwellings. The following regulations shall apply, except as otherwise provided herein.

1. Permitted Principal Uses and Structures.
 - A. Multi-family dwellings.
 - B. Churches and similar places of worship.
 - C. Public, parochial, or private schools, including elementary, junior high, and high schools.
 - D. Public or semi-public parks, open spaces, playgrounds, or community buildings.
 - E. Private nursery schools and day care centers.
 - F. Home occupations, as limited by Section 165.05.
2. Permitted Accessory Uses and Structures.
 - A. Private garages or carports.
 - B. Private swimming pools.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Accessory uses or structures clearly incidental and subordinate to one of the permitted uses or unless otherwise excluded.
 - E. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
3. Special Exceptions.
 - A. Hospitals or sanitariums, except animal hospitals.
 - B. Public utilities.
 - C. Nursing homes or retirement homes.
 - D. Rooming and boarding houses.
 - E. Clinics, including veterinarian clinics, provided such clinics maintain the residential character of the neighborhood.
4. Minimum Lot Area and Width.
 - A. Single-Family Dwelling:
Area – 7,000 square feet
Width – 50 feet
 - B. Two-Family Dwelling:
Area – 10,000 square feet
Width – 75 feet
 - C. Multi-Family Dwelling (three or more dwellings per unit)

- Area – 12,000 square feet plus 2,000 square feet per dwelling unit over 3 dwellings
Width – 120 feet
- D. Other principal permitted uses:
Area – 20,000 square feet
Width – 120 feet
5. Minimum Yard Requirements.
- A. Dwellings:
Front – 25 feet
Rear
Principal use – 20 feet
Permissible accessory buildings – No minimum requirement when adjacent to an alley, otherwise 6 feet.
Side:
1 and 2 story – 12 feet total both sides, 6 feet minimum one side
3 story – 12 feet each side
Corner lot, street side – 15 feet
- B. Other principal permitted uses:
Front – 40 feet
Rear – 40 feet
Side – 20 feet each side
Corner lot, street side – 40 feet
6. Maximum Height.
Principal building – 3 stories or 45 feet
Accessory building – 18 feet or as approved by exception by the Board of Adjustment
7. Minimum Off-Street Parking and Loading Space
- A. Multi-family dwellings, including retirement homes – 2.5 spaces for each dwelling unit.
- B. Churches – 1 space for every 6 seats in the main auditorium.
- C. Community center, library or museums – 10 spaces plus 1 additional space for each 300 square feet of floor area in excess of 2,000 square feet.
- D. Hospital – 1 space for each 4 beds.
- E. Sanitariums, nursing, rest or convalescent homes – 1 space for every 2 beds.
- F. Schools and public buildings – 1 space for each classroom or office room plus 1 space for every 10 seats in main auditorium, stadium, or place of public assembly.
8. Permitted Signs. The following signs shall be permitted:
- A. Signs not to exceed 6 square feet in area.
- B. Church or public bulletin boards not to exceed 24 square feet in area.

C. Temporary signs advertising the lease or sale of the premises not to exceed 12 square feet in area.

Any sign not conforming to the provisions of this chapter shall be made to conform or be removed within one year after the effective date hereof.

[The next page is 897]

165.11 C-1 COMMERCIAL DISTRICT. The C-1 District is intended and designed for general retail and service commercial uses in an efficient and compact manner and to preserve the historic character of the original business district of the City. The C-1 District shall be subject to the following regulations:

1. Permitted Principal Uses and Structures.
 - A. Single- and multi-family dwellings.
 - B. Apartments above a store or shop.
 - C. Public or semi-public parks, open spaces, playgrounds, community buildings.
 - D. Commercial amusements, such as pool halls, bowling alleys, or video arcades.
 - E. Business, professional offices, studios.
 - F. Personal service and repair shops.
 - G. Financial institutions.
 - H. Retail businesses.
 - I. Government offices, garages, libraries and facilities.
 - J. Restaurants, taverns.
 - K. Motels, hotels.
 - L. Wholesale display and sales rooms and offices.
 - M. Nursery schools and childcare centers.
 - N. Museums.
 - O. Private clubs, lodges or veterans' organizations.
 - P. Public utilities.
 - Q. Medical and dental clinics.
 - R. Printing, publishing and engraving.
 - S. Bakery and catering service.
 - T. Laundries and dry-cleaning establishments.
 - U. Automotive sales, service and repair.
 - V. Contractor shop and storage yard.
 - W. Farm implements and service (sales, service, repair and assembly).
 - X. Freight, terminal and grain elevator.
 - Y. Building materials and storage.
 - Z. Public utilities.
 - AA. Meat locker and processing plant.
 - BB. Storage sheds.
 - CC. Other uses of a similar nature.

2. Permitted Accessory Uses and Structures.
 - A. Uses and structures clearly incidental to the permitted uses.
 - B. Storage of merchandise incidental to the permitted principal use.
 - C. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Special Exceptions.
 - A. Carnivals, circuses, fairs or road shows.
4. Minimum Lot Area and Width. For single family, two-family and multi-family dwellings, use the Minimum Lot Area and Width Requirements of the R-3 district; otherwise, no minimum requirements for other principal permitted uses.
5. Minimum Yard Requirements.
 - A. For single family, two-family and multi-family dwellings, use the Minimum Yard Requirements of the R-3 district.
 - B. For other principal permitted uses within original business district with lots fronting on Main Street, from Railroad Avenue to Broad Street, and on the south side of Railway Avenue and east of Main Street:
 - Front – no minimum requirement.
 - Side – no minimum requirement except, when adjoining an R District, not less than 6 feet, unless separated by a public street.
 - Rear – no minimum requirement, except, for dwelling, not less than 20 feet.
 - C. All other areas of the District excepting the portion within the original business district governed by paragraph B of this subsection:
 - Front – 30 feet.
 - Side – 10 feet, except where adjacent to any R District or street right-of-way 30 feet shall be required.
 - Rear – 30 feet.
6. Maximum Height.
 - A. Principal building – 3 stories or 45 feet
 - B. Accessory building – 18 feet or as approved by exception by the Board of Adjustment
7. Minimum Off-Street Parking and Loading Spaces.
 - A. Dwellings – 1 parking space for each dwelling unit.
 - B. All other uses – 1 off-street parking or loading space for every 10,000 square feet of floor area or fraction thereof.
8. Permitted Signs. All signs shall conform to the requirements under Signs, Awning and Canopies of this Code of Ordinances.

[The next page is 905]

165.12 M-1 INDUSTRIAL DISTRICT. The M-1 District is intended and designed to provide areas of the City suitable for commercial and industrial uses and activities, consistent with the existing character of the City. The M-1 District shall be subject to the following regulations:

1. Permitted Principal and Structures.
 - A. Any use permitted in C-1 Commercial District.
 - B. Public or semi-public parks, open spaces, playgrounds, or community buildings.
 - C. Animal hospital, kennels, and pounds.
 - D. Automotive sales, service, or repair.
 - E. Contractor's shop and storage yard.
 - F. Creamery and dairy operation.
 - G. Farm implement sales, service, repair, and assembly.
 - H. Freight terminal and grain elevator.
 - I. Building material sales and storage.
 - J. Railroads and public utilities.
 - K. Wholesaling and warehousing.
 - L. Sheet metal products manufacture.
 - M. Clothing manufacture.
 - N. Bulk storage of petroleum products and liquid fertilizers.
 - O. Brick and clay products manufacture.
 - P. Concrete products and central mixing and proportioning plant.
 - Q. Flour, feed, and grain milling and storage.
 - R. Tool, die, gauge, and machine shops.
 - S. Structural iron and steel fabrication.
 - T. Machinery manufacture.
2. Permitted Accessory Uses and Structures.
 - A. Any use or structure clearly incidental to the permitted uses of this District.
 - B. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
3. Special Exceptions.
 - A. Carnivals, circuses, fairs, road shows.
4. Minimum Lot Area and Width. For single family, two-family and multi-family dwellings, use the Minimum Lot Area and Width Requirements of the R-3 district; otherwise, no minimum requirements for other principal permitted uses.

5. Minimum Yard Requirements.
 - A. For single family, two-family and multi-family dwellings:
 - Front – use the Minimum Front Yard Requirements of the R-3 district
 - Side – use the Minimum Side Yard Requirements of the R-3 district
 - Rear – use the Minimum Rear Yard Requirements of the R-3 district
 - B. For other principal permitted uses within original business district with lots fronting on Main Street, from Railroad Avenue to Broad Street, and on the south side of Railway Avenue and east of Main Street:
 - Front – no minimum requirement.
 - Side – no minimum requirement. except, when adjoining an R District, not less than 6 feet, unless separated by a public street.
 - Rear – no minimum requirement, except, when adjoining an R District, not less than 20 feet.
 - C. Yards (all areas of the District) excepting the portion within the original business district governed by paragraph B of this subsection:
 - Front – 30 feet.
 - Side – 10 feet, except where adjacent to any R District or street right-of-way 30 feet shall be required.
 - Rear – 30 feet.
6. Maximum Height:
 - Principal building – 3 stories or 45 feet.
 - Accessory building – 18 feet or as approved by exception by the Board of adjustment
7. Minimum Off-Street Parking and Loading Spaces.
 - A. Parking.
 - (1) Automobiles and farm implement sales, parts, rentals, and service garages – 1 parking space for each 600 square feet of gross floor area.
 - (2) Bowling alleys – 5 spaces for each lane.
 - (3) Dwellings – 2 parking spaces per dwelling unit.
 - (4) Furniture and appliance stores, household equipment, or furniture repair shops – 1 parking space for each 600 square feet of gross floor area.
 - (5) Hotels, motels, lodging houses – 1 space for each sleeping or living unit.
 - (6) Manufacturing plants – 1 parking space for each employee on the maximum working shift, plus 1 space for each 2,000 square feet of gross floor area.

- (7) Restaurants, taverns and night clubs – 1 parking space for each 150 square feet of gross floor area.
 - (8) Retail stores, shops, and supermarkets over 2,000 square feet gross floor area – 1 parking space for each 300 square feet of gross floor area.
 - (9) Retail stores, shops, and supermarkets under 2,000 feet gross floor area – 1 parking space for each 200 square feet of gross floor area.
 - (10) Theaters, assembly halls, and auditoriums – 1 parking space for each six seats.
 - (11) Wholesale establishments or warehouses – 1 parking space for each employee, plus 1 space for each 2,000 square feet of gross floor area.
 - (12) In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use that is mentioned and to which said use is similar, shall apply.
- B. Off-Street Loading. 1 space for each 20,000 square feet of floor area or fraction thereof.
8. Permitted Signs. All signs shall conform to the requirements under Signs, Awnings and Canopies of this Code of Ordinances.

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165.13 NC NEIGHBORHOOD CONSERVATION (OVERLAY) DISTRICT. This overlay district is intended to preserve the character of existing neighborhoods and developments either in existence or under construction at the time of adoption of the Zoning Ordinance. It is designed to prevent these neighborhoods and subdivisions from becoming nonconforming under the terms of the Zoning Ordinance. This district is also intended to provide for minor in-filling of existing neighborhoods consistent with their zoning and character at the time of enactment of the Zoning Ordinance. The regulations permit future development consistent with existing character. Areas identified as having a stable and fixed character will be allowed to continue to exist and develop under the general regulations governing their design and construction or under the actual plat plans previously approved. The provisions of Section 165.15 shall govern the uses of structures or land in the NC District. The boundary of the NC District is shown on the Official Zoning Map. The NC District shall overlay only the R-2, C-1, and M-1 zoned areas that are within the boundary of the NC District shown on the Official Zoning Map. Where an NC District boundary line is shown to be immediately adjacent to a zoning district line, that NC District boundary shall be taken to be the same as the zoning district boundary.

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165.14 SUPPLEMENTARY DISTRICT REGULATIONS.

1. **Visibility at Intersection.** On a corner lot in any residential district, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of 2½ and 10 feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining said right-of-way lines at points that are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
2. **Minimum Width of Dwelling.** The minimum dimension of the main body of the principal building in any R-E, R-S, R-1, R-2, or R3 District shall not be less than 20 feet.
3. **Accessory Buildings.** No accessory buildings shall be erected on a lot prior to obtaining a construction permit for the lot's principal use. No accessory buildings shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings. The maximum floor area of all buildings and impervious surfaces in any R-E, R-S, R-1, R-2, or R3 District shall not exceed 15% of the sum of the rear plus side yard area.
4. **Several Principal Structures on Lot.** In any R-3, C-1, or M-1 District, more than one principal structure housing a permitted principal use may be erected on a single lot; provided, the area, yard, and other requirements of this chapter shall be met for each structure as though it were on an individual lot. In all other districts, only a single Principal Structure is permitted on a lot.
5. **Front yard setback in the R-1, R-2 and R-3 Residential districts shall be not less than that district requirements, except as follows:**
 - A. **Between Existing Buildings.** Where a building is to be erected on a parcel of land that is within 150 feet of existing building on both sides, the minimum front yard shall be the average of the setback yardage of all principal buildings within 150 feet on both sides (excluding any principal building setback yardage of reversed frontage corner lots); or
 - B. **On a Corner Lot Adjacent to Existing Building.** Where a building is to be erected on a parcel of land that is within 150 feet of an existing building on one side only within the same block, such building may be erected as close to the street as the average setback of all buildings located within 150 feet. This provision does not apply to principal building setback yardage for reversed frontage corner lots.
 - C. **Double Frontage.** Where lots have a double frontage, the front yard as required herein shall be provided on both streets.
6. **Height Regulation Exception.** The height limitations contained in this chapter do not apply to belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housings, or other structures placed above the roof level and not intended for human occupancy.
7. **Use of Public Right-of-Way.** No portion of the public street of land or alley right-of-way shall be used or occupied by an abutting use of land or structures, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

8. Basement Houses. Inhabited basement houses existing at the time of the effective date hereof shall be completed, framed, and roofed within two years.

9. Proposed Use Not Covered. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper district in which such uses should be permitted and this chapter amended before a permit is issued for such proposed use.

10. Street Frontage Required. Except as may be permitted herein, no lot shall contain any building used for single-family dwelling purposes unless the lot abuts for at least 20 feet on a public street, and no lot shall contain any building used for duplex or multiple-family dwelling, commercial or industrial purposes unless the lot abuts for at least 40 feet on a public street.

11. R District Protection. Whenever any permitted M District use abuts an R District, a 10-foot yard shall be maintained on the M District property by the owner between said use and the adjoining lots in any R District. An opaque screen at least 8 feet in height shall be installed and shall be maintained adjacent to all R District boundaries. The screen shall be in line with the front of any adjoining residential structure in any adjoining R District or the front of the proposed commercial structure, whichever is the lesser front yard setback. An opaque screen of 3 feet shall be installed and maintained along each alley line where the premises is across from any R District. The opaque screen need not extend beyond the opaque screen installed along the street side lot line and shall consist of the following:

A. Wood or masonry walls or fences when constructed of materials that provide openings of less than 50 percent in area of the vertical surface of the wall or fence.

B. Berms constructed of earthen materials and landscaped.

C. Plant materials when used as a screen shall consist of compact evergreen plants. They shall be of a kind or used in such a manner so as to provide their screening function within 18 months after planting. The City shall require that screens described in either A or B above shall be installed, if, after 18 months after planting, plant materials have not formed an opaque screen or if an opaque screen is not maintained.

A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials that provide openings of more than 50 percent in area of the vertical surface of the wall or fence, the plant materials shall be located between the wall or fence and it shall not be considered a part of the opaque screen and the lot line.

12. Fences and Plantings.

A. Height, Front Yard. Fences or walls constructed or hedges planted along the front yard boundaries shall not exceed 4 feet in height. Front yard fences, walls and hedges four feet in height shall be set back in compliance with front yard requirements for a principal building. Front yard fences, walls or hedges less than four feet in height shall be no closer than six inches to the lot line.

B. Height, Rear and Side Yards. Fences, walls, and shrubs planted for hedge purposes enclosing all or any part of the rear yard or along the side yard lot line of any property shall not be more than six feet in height from the main level of the ground at any point. Hedges and shrubs shall be no closer than

three feet to any side or back yard lot line. Side yard fences and walls must be constructed on the property line.

C. Construction. Fences erected along any lot line shall be constructed in such a manner so as to place all posts, poles, braces and supports on the side of the fence facing the property owned or occupied by the builder of the fence.

165.15 CONFORMANCE.

1. Nonconforming Uses of Land. The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the provisions of this chapter may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied when such use became nonconforming under the provisions of this chapter.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel which was not occupied by such use when it became nonconforming under the provisions of this chapter.

C. If any such nonconforming use of land ceases for any reason for a period of more than nine (9) consecutive months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

2. Nonconforming Uses of Structures. The lawful use of structure, or of a structure and land in combination, which becomes nonconforming under the provisions of this chapter may be continued so long as it remains otherwise lawful, subject to the following provisions.

A. No existing structure devoted entirely or in part to a use not permitted by this chapter in the district in which it is located, except when required by law, shall be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

B. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use; provided, the Board of Adjustment, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for nine (9) consecutive months, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

3. Nonconforming Structures. Where a structure becomes nonconforming by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

A. No such structure may be enlarged or altered in a way that increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of less than 60 percent of its assessed value, it may be reconstructed providing it is not enlarged, the nonconformity is not increased, and there is no nonconforming use of a structure of land involved.

C. Should such structure be destroyed by any means to an extent of 60 percent or more of its assessed value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

4. Required Repairs for Nonconforming Building. Nothing in this chapter shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, provided that no structural enlargement, extension, alteration, or change shall be made which will increase the degree of nonconformity of such building.

5. Nonconforming Lots. In the NC District on a lot of record at the time of enactment of this section, a single-family dwelling may be established on an unbuilt substandard-sized parcel, provided it is at least 7,100 square feet, has a minimum lot width of 50 feet, can meet the yard requirements of the District, and provided all other requirements of this chapter are complied with. However, if two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established for that district by this chapter, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used which does not meet lot width and area requirements established for that district by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

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165.16 ZONING ADMINISTRATION AND ENFORCEMENT.

1. Enforcement. The provisions of this chapter shall be enforced by the Mayor, acting with the Council.
2. Appeals. Appeals from decisions of the Council relative to matters contained in this chapter may be taken as provided by law.
3. Violations and Penalties. Any person, whether acting directly or indirectly or through employees or agents, who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day a violation is permitted to exist after notification by the Council through the Mayor shall constitute a separate offense and shall be punishable accordingly.

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Purpose	170.10 Final Plat Requirements
170.02 Jurisdiction	170.11 Final Plat Procedure
170.03 Definitions	170.12 Recording of Plat
170.04 Fees	170.13 Bond Requirements
170.05 Variances	170.14 Streets and Rights-of-Way
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170.07 Amendments	170.16 Lots
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170.01 PURPOSE. The purpose of this chapter is to provide for the orderly development of the City and adjacent territory by establishing appropriate standards for streets, blocks, lots, utilities, and other improvements, by promoting coordination with existing development, and by establishing procedures and conditions for the approval of subdivisions of land, all in the interest of the health, safety, and general welfare of the community.

170.02 JURISDICTION. All plats, replats, or subdivision of land into three (3) or more parts for the purpose of laying out a portion of the City, addition thereto, or, pursuant to Chapter 354.9 of the *Code of Iowa*, suburban lots within two (2) miles of the corporate limits of the City shall be submitted to the Council and Planning and Zoning Commission of the City in accordance with the provisions of this chapter and shall be subject to the requirements herein.

170.03 DEFINITIONS. For the purpose of this chapter, the word “building” shall include the word “structure” and the following terms and words are defined.

1. “Alley” means a permanent service way providing a secondary means of access to abutting lands.
2. “Building line” means a line established on a plat between which line and the public right-of-way line no buildings or structures may be erected, as prescribed in the zoning ordinance. The term “setback line” means the same. Building lines shall be shown on all lots intended for any residential, commercial, or industrial use, unless otherwise noted herein.
3. “Commission” means the Planning and Zoning Commission of Maxwell, Iowa.
4. “Cul-de-sac” means a short minor street having one end open to traffic, the other end being permanently terminated by a vehicular turnaround.
5. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of a designated part of the property. Public utilities shall have the right to trim or remove trees which interfere with the use of the easement.
6. “Final plat” means the map or drawing on which the subdivision plan is presented in the form that, if approved by the Council and Planning Commission, will be filed and recorded with the County Recorder.
7. “Maintenance bond” means surety bond or cash deposit posted by a contractor and made out to the City in an amount equal to the full cost of the improvements which are required by this chapter. The bond amount shall be that of the contract price, said

surety bond or cash deposit being legally sufficient to secure to the City that said improvements shall be kept in good repair from the time of acceptance by the City of said improvements for such period as is specified by this chapter.

8. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision, which is submitted to the Council and Planning and Zoning Commission for consideration and determination whether the proposed layout of the land is satisfactory from the standpoint of public interest and safety, and conforms to state statutes and this Code of Ordinances.

9. "Performance bond" means surety bond or cash deposit posted by a contractor made out to the City in an amount equal to the full cost of the improvements. The bond amount shall be that of the contract price, said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with the terms of the contract documents.

10. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date hereof.

11. "Street" means a right-of-way dedicated to and accepted for the public use and which affords the principal means of access to abutting property.

A. "Arterial street" means a street intended for cross-town or through traffic.

B. "Collector street" means a street intended to carry vehicular traffic from local service streets to arterial streets.

C. "Local service street" means a street used primarily for access to abutting property.

12. "Street pavement" means the wearing surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side or, where no curbs are provided, from edge of pavement on one side to edge of pavement on the other side.

13. "Street right-of-way" means the area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

14. "Subdivider" means any person, individual, firm, partnership, association, estate, trust, or any other group or combination acting as a unit who shall lay out for purposes of sale or development, any subdivision thereof as defined herein, either for himself or others.

15. "Subdivision" means the division of a separate tract of land into three or more lots or parcels for the purpose of ownership or building development or, if a new street is involved, any division of a parcel of land.

170.04 FEES. Before a preliminary plat or final plat shall be considered by the Commission, the applicant or agent shall deposit with the City Clerk a fee set by Council resolution. The appropriate fees shall be deposited at the time of filing of the preliminary plat and the final plat. In addition, engineering charges incurred by the City for the examination and review of the preliminary and final plats shall be paid by the subdivider. In addition to the plat filing fees, the subdivider shall be responsible for just and reasonable costs incurred by the City during the course of construction of the improvements for inspection, testing, or other work deemed necessary by the City to assure proper construction in accordance with the approved construction drawings and applicable standards and ordinances.

170.05 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations, not created by the owner or developer, the Planning and Zoning Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

170.06 ENFORCEMENT.

1. No plat or subdivision in the City or within two miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.
2. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter.
3. No public improvements over which the Council has control shall be made with City funds, nor shall any City fund be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the effective date hereof unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.
4. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to penalties for violation of this Code of Ordinances.

170.07 AMENDMENTS. This chapter may be amended from time to time by the City Council. Such amendments as may be proposed shall first be submitted to the Planning and Zoning Commission for study and recommendation. The Commission shall report within 30 days, after which time the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

170.08 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall contain the following information.

1. A location map showing:
 - A. The subdivision name.
 - B. An outline of the area to be subdivided.
 - C. The existing streets and subdivisions.
 - D. North arrow and scale.
2. A preliminary plat of the subdivision drawn on a 22 by 34-inch sheet to the scale of 50 feet to one inch, said preliminary plat to show:
 - A. Legal description, boundary, acreage, and name of proposed subdivision.
 - B. Name and address of the owner and developer.

- C. Name and address of the engineer and surveyor who prepared the plat, and date thereof.
- D. North arrow and graphic scale.
- E. Contours at two-foot intervals or less.
- F. Location of existing lot lines, lot sizes, streets, public utilities, water mains, sewers, drain pipes, culverts, watercourses, bridges, railroads, and buildings in and immediately adjacent to the proposed subdivision.
- G. Zoning classifications of proposed subdivision.
- H. Layout of proposed blocks and lots including the dimensions of each, the lot and block number in numerical order, and the square foot area of non-rectangular lots.
- I. Location and widths, other dimensions and names of the proposed streets, alleys, roads, utility and other easements, parks, and other open spaces or reserved areas.
- J. Names and addresses of adjacent property owners.
- K. A cross-section of the proposed streets showing the roadway location, the paving materials and dimensions and, if proposed, the type of curb and gutter and sidewalks to be installed.
- L. The layout of proposed water mains and sanitary sewers, including source of water and connections to existing sewer system.
- M. The drainage of the land, including drainage easements, proposed storm sewers, ditches, culverts, bridges, and other structures.
- N. Proposed building lines, shown on all lots in accordance with the zoning classification.
- O. All proposed locations of gas, electric and telephone utility systems and related appurtenances thereto.
- P. Other information deemed necessary for the preliminary plat review, as may be required by the City.
- Q. Certification of licensed engineer and/or licensed land surveyor.
- R. Any plat that cannot be served by public sewer shall be accompanied by two copies of the results of soil percolation tests performed in accordance with the County's specifications.

170.09 PRELIMINARY PLAT PROCEDURE. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared of the subdivision containing the information specified herein and shall file 10 copies with the Clerk and three copies of a reproducible photo reduction on 11 by 17-inch sheets. The Clerk shall immediately transmit seven copies of the preliminary plat to the Planning and Zoning Commission for study and recommendation. The Commission shall examine the plat as to its compliance with this chapter and the Comprehensive Plan of the City, and shall have 45 days within which to submit a recommendation to the Council; provided, the owner or developer may agree to an extension of time not to exceed 60 days. The Commission recommendations shall be documented on six copies of the preliminary plat which shall be forwarded to the Council. The Council shall, upon receipt of the Commission's recommendation or after the 45 days or any extension thereof shall

have passed, by resolution, grant approval of or reject the preliminary plat. Approval of preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat, but shall not be deemed approval of the subdivision.

170.10 FINAL PLAT REQUIREMENTS. The final plat shall meet the following requirements:

1. It may include all or only part of the preliminary plat.
2. The plat shall be drawn to the scale of 50 feet to one inch. When more than one sheet is used to describe the lands to be subdivided, each sheet shall display both the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the sheets adjoin.
3. The final plat shall contain the following:
 - A. Name of the subdivision.
 - B. Name and address of owner and subdivider.
 - C. Name of person who prepared the plat, and date thereof.
 - D. North arrow, graphic scale, and date.
 - E. Accurate legal description of the boundary, acreage, and zoning classification.
 - F. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, with accurate references to known or permanent monuments.
 - G. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
 - H. Street names.
 - I. Complete curve notes to all curves included in the plat.
 - J. Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley, and lot lines.
 - K. Block numbers, lot numbers, and dimensions.
 - L. Building lines and dimensions shown in accordance with the zoning ordinance.
 - M. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use, and existing and proposed easements.
 - N. Location, description, and dates set or to be set for all monuments.
 - O. Certification of engineer and/or land surveyor.
4. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.
5. The following material shall be submitted with the final plat for Commission consideration:
 - A. Six sets of construction drawings, submitted as a complete set on 24 by 36-inch sheets, with cover sheet, including the engineering design for all streets, alleys, sanitary sewers, water mains, storm sewers, drainage channels, and other

appurtenances to the subdivision. The drawings shall also include a plan layout of the subdivision showing the relationship between all the proposed improvements, hydrant coverage, and street lighting plan in accordance with these regulations. The set shall include the plans and profiles of proposed sanitary sewers, storm sewers, and pavement at a scale of one inch equals 50 feet horizontal, and one inch equal five feet vertical, with the appropriate details necessary to construct the improvements.

B. Ten copies of any protective covenants of the subdivision proposed by the City or subdivider.

6. The following material shall be submitted for Council consideration:

A. Six copies of the final plat as approved by the Commission.

B. Six sets of construction drawings as approved by the Commission.

C. Six copies of the protective covenants as approved by the Commission.

D. A deed to the City, properly executed, for all streets and any other property intended for public use.

E. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

F. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

G. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

H. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

I. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

J. Ten copies of an approximate planned construction time schedule.

K. Performance bonds conforming in amount and form to Section 170.13 of these regulations.

170.11 FINAL PLAT PROCEDURE. A final plat shall be submitted within 180 days of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat. Procedures for final plats shall be the same as set out of preliminary plats in Section 170.09 of this chapter. Upon approval of the final plat, the approval of the Council shall be documented on three copies of the final plat, and one copy of the same shall be returned to the applicant, and two copies filed with the Clerk, along with such other certifications and instruments as may be required by law.

170.12 RECORDING OF PLAT. Upon Council approval of the final plat, the City shall present to the applicant a resolution of approval to be presented to the County Recorder for the applicants recording of the plat. Applicant shall submit to the City Clerk a certificate of recording from the County Recorder's Office. Approval of the final plat shall be null and void unless the plat is filed in the office of the County Recorder within 60 days of the date of said final plat approval.

170.13 BOND REQUIREMENTS.

1. Performance Bonds.

A. The subdivider, as required in Section 170.10 of these regulations, shall at the time of submittal of the final plat to the City Council post bonds in the amount approved by the City Engineer as sufficient to serve the satisfactory construction, installation, and dedication of the required improvements, as shown on the construction drawings. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City attorney as to form, sufficiency, and manner of execution as set forth in these regulations.

B. A separate bond shall be posted for each phase of the construction, such as sanitary sewer, water main, storm sewer, pavement, sidewalks, etc.

C. All bonds shall have a time period as recommended by the Commission. The required improvements shall be completed within the time period specified, which shall in no event exceed four years from the date of final plat approval by the City Council, unless extended by the City Council.

D. Bond amount will be determined by submittal to the City of quantity and cost estimates prepared by the subdivider's engineer for improvements involved. All estimates shall be approved by the City Engineer with recommendations to the City Council.

E. All bonds shall be approved by the City Council as to amount and surety and conditions. The Council may at any time during the period of such bonds accept a substitution of principal of surety on the bond upon recommendations of the Commission.

F. The Commission may, upon proof of difficulty, recommend to the Council extension of the completion date set forth in such bonds for a maximum period of one additional year.

G. The performance bond may not be released or reduced except as follows:

(1) The Council will not accept dedication of required improvements or release or reduce a performance bond until the City Engineer has submitted a recommendation stating that all required improvements have been satisfactorily completed and until the

applicant’s engineer has certified to the City, through submission of detailed record drawings of the improvements indicating location, dimensions, materials, and other information required by the City, that all public improvements are in accordance with construction drawings for the subdivision as prescribed in these regulations.

(2) A performance bond will be released upon actual dedication acceptance of the public improvements. Partial release or reduction of the original bonds may be approved by the City Council upon dedication acceptance of the improvements completed. The amount of the reduction shall be the ratio that the completed improvements bear to the total public improvement bonds originally submitted.

2. Maintenance Bonds.

A. The subdivider shall, at the time of acceptance of the improvements by the City Council, post maintenance bonds in an amount described herein as sufficient and as approved by the City attorney as to form, sufficiency and manner of execution as set forth in these regulations.

B. A separate bond shall be posted for each phase of the construction, such as sanitary sewer, water main, storm sewer, pavement, sidewalks, etc.

C. The subdivider shall be required to maintain all required improvements free of defects after acceptance of said improvements by the City Council for a period specified below:

- Sanitary Sewer..... 4 years
- Water Main..... 4 years
- Storm Sewer 4 years
- Pavement 4 years
- Sidewalk 4 years

D. Maintenance bonds posted by the subdivider’s contractor may be accepted.

E. Maintenance bonds shall be in the amount of the performance bonds.

170.14 STREETS AND RIGHTS-OF-WAY.

1. Continuation of Streets. New subdivisions shall make provisions for continuation and extension of arterial and collector streets.

2. Rights-of-Way Provided. Rights-of-way shall be provided as follows:

- Arterial Streets.....80 feet
- Collector Streets66 feet
- Local Service Streets, with curb and gutter.....60 feet
- Local Service Streets, without curb and gutter.....66 feet
- Cul-de-Sacs, diameter120 feet
- Alleys, residential16 feet
- Alleys, commercial or industrial district20 feet

3. Minimum Pavement Widths. Minimum pavement widths, measured back to back, shall be provided as follows:

- Arterial Streets..... 41 feet
- Collector Streets 37 feet

Local Service Streets:

Residential Use:

- Parking Two Sides 31 feet
- Parking One Side (Four off-street parking spaces must be provided for each residential dwelling unit unless waived by the Council.) 26 feet

Commercial and Industrial:

- Parking One Side 31 feet
- No On-Street Parking with Adequate Off-Street Parking Provided..... 26 feet

- Cul-de-sacs, diameter 80 feet
- Alleys 16 feet

4. Grades. No street grade shall be less than one-half of one percent (.5%) without approval of the City Engineer, and shall not exceed the following limits without the approval of the City Engineer.

- Arterial Streets 6%
- Collector Streets 7%
- Local Service Street 8%

5. General Considerations.

- A. Intersections of more than two streets at a point shall not be permitted.
- B. Offsets of cross intersecting street shall not be less than 150 feet.
- C. Intersection of street centerlines shall be not less than 75 degrees.
- D. No dead-end streets and alleys will be permitted except at subdivision boundaries, where an interim turnaround shall be required.
- E. Cul-de-sacs shall not exceed 600 feet in length.
- F. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof.
- G. Alleys shall be hard surfaced in residential districts.

170.15 BLOCKS. The length of blocks shall be not less than 250 feet and not more than 1,320 feet. The width of the block shall be sufficient to permit two tiers of lots, with minimum dimensions conforming to the requirements of the zoning district.

170.16 LOTS. Lots shall conform to the following requirements:

1. The dimensions, shape, and orientation of the lots shall be determined with regard to solar orientation, topography, land features, and circulation.
2. Double frontage lots other than corner lots shall be prohibited except where such lots back on a municipal arterial or collector street or highway or except in the case of large commercial or industrial lots. In the case of commercial or industrial lots, such double frontage lots shall be buffered from the rear street frontage by the methods outlined in the zoning ordinance for R District Protection from an M District property across an alley. Ingress and egress shall be limited to the frontage street and are strictly prohibited on the rear street. A plat covenant shall be provided covering this restriction.
3. Each lot shall be provided by means of a public street with satisfactory access to an existing, paved public street.

4. All lots shall conform to the lot dimensions and area as set forth for the applicable zoning district in the zoning ordinance.
5. For the purpose of complying with minimum health standards, the following shall be observed with reference to all new construction, and with reference to all zoning categories as presently established within the City: All lots, except Estate Residential, shall be provided with access and connections to public water and sanitary sewer mains. Estate Residential lots shall be provided with public water supply mains if the City elects to provide public water supply for domestic uses.

170.17 REQUIRED IMPROVEMENTS. The subdivider shall provide all required improvements in conformance to the City's Comprehensive Plan, Design Standards, and Standard Construction Specifications.

1. **Sanitary Sewers.** The subdivider shall provide the subdivision with a complete sanitary sewer system that connects with a sanitary sewer outlet approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent properties.
2. **Storm Drains.** The subdivider shall provide the subdivision with adequate drains, ditches, culverts, bridges, storm sewers, intakes, and manholes, to provide for the collection and the removal of surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.
3. **Water.** The subdivider shall provide the subdivision with a complete water main system that shall be extended into and through the subdivision to the boundary lines, and which shall provide for a water connection for each lot, and is connected to the City water system. The subdivider will provide all hydrants, valves, and other appurtenances.
4. **Grading.** All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council.
5. **Curb and Gutter.** Where required by the Council, curb and gutter shall be installed on streets being dedicated for public use. Curb and gutter shall be constructed of Portland cement concrete in accordance with design standards and specifications approved by the Council.
6. **Surfacing.** All streets being dedicated for public use shall be surfaced. Surfacing shall be asphaltic concrete, asphalt seal coat or Portland cement concrete as determined by the Council. Streets shall be constructed in accordance with the City's Standard Construction Specifications and approved by the Council.
7. **Design Standards.** Required improvements shall be constructed in accordance with Design Standards provided in this chapter and in the City's Standard Construction Specifications, and as approved by the Council.
8. **Specifications.** The type of construction, the materials, the methods and standards of subdivision improvements shall be in accordance with the current Standard Construction Specifications of the City. Plans and any Supplemental Specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.
9. **Inspection.** The Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of this chapter. The cost of said

inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

10. Comprehensive Plan. All proposed plats and subdivisions shall conform to the Comprehensive Plan as amended.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

(Code of Iowa, Sec. 372.13[4])

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MAXWELL, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of Maxwell, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Maxwell, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MAXWELL, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of Maxwell, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Maxwell, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MAXWELL, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Maxwell, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Maxwell, Iowa, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$10.00 per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____
Second Reading: _____
Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

**AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO
RAILROAD ADDITION TO MAXWELL, IOWA**

Be It Enacted by the City Council of the City of Maxwell, Iowa:

SECTION 1. The alley lying in Block Two, Railroad Addition to Maxwell, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ___ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Maxwell, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Maxwell, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Maxwell, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Maxwell, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Maxwell, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Maxwell, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Maxwell, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Maxwell, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on

_____, (Name of Property Owner)

through _____, Agent, (Agent’s Name or “None”)

to make connection of the property described as

to the public sanitary sewer located _____ within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____.

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20__.

Mayor

ATTEST:

City Clerk

