

# CHAPTER 1

## CODE OF ORDINANCES

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**1.01 TITLE.** This Code of Ordinances shall be known and may be cited as the Code of Ordinances of the City of Polk City, Iowa. *(Ord. 2013-300 – April 13 Supp.)*

**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 Polk City, Iowa.
3. “Clerk” means the city clerk of Polk City, 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 Polk City, Iowa. *(Ord. 2013-300 – April 13 Supp.)*
6. “Council” means the city council of Polk City, Iowa.
7. “County” means Polk 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means the ordinances of the City of Polk City, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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.

20. “Urban Design Standards and Urban Standard Specifications (U.D.S & U.S.S.)” means the latest edition of the Urban Design Standards Manual and the Urban Standard Specifications for Public Improvements Manual as compiled by the Urban Standards and Specifications Committee.

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 preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

*(Code of Iowa, Sec. 364.1)*

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

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

*(Code of Iowa, Sec. 364.14)*

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

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

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

*(Code of Iowa, Sec. 380.2)*

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

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

*(Code of Iowa, Sec. 718.5)*

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

**1.12 WARRANTS.** If consent to enter upon or inspect any building, structure or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the

Code of Iowa, for an administrative search warrant. No owner, operator or occupant or any other person having charge, care or control of any dwelling unit, rooming unit, structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

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

**1.14 STANDARD PENALTY.** The penalty for violation of a City ordinance shall be the same penalty as for a simple misdemeanor. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

*(Ord. 2010-400 – May 10 Supp.)*

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

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## CHAPTER 2

# CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

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

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

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

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## CHAPTER 3

# MUNICIPAL INFRACTIONS

3.01 Municipal Infraction  
3.02 Environmental Violation  
3.03 Penalties  
3.04 Civil Citations

3.05 Alternative Relief  
3.06 Criminal Penalties  
3.07 Failure to Pay a Civil Citation  
3.08 Habitual Offenders

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

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

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

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

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

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

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

1. Standard Civil Penalties.
  - A. First offense – not to exceed \$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.

*(Ord. 2010-400 – May 10 Supp.)*

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

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

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

**3.04 CIVIL CITATIONS.** Any officer authorized by the City to enforce this Code of Ordinances may issue or direct to be issued a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 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 served to the defendant, 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: *(Ord. 2009-900 – Dec. 09 Supp.)*

*(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.

In the event the municipal infraction citations is issued for a violation that affects real property and that charges a violation relating to the condition of the property, the citation shall include a legal description of the property and a copy of the citation shall also be filed with the County Treasurer. *(Ord. 2010-2400 – Apr. 11 Supp.)*

**3.05 ALTERNATIVE RELIEF.** Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief. *(Code of Iowa, Sec. 364.22 [8])*



**3.06 CRIMINAL PENALTIES.** This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. In addition to any other provision of the Code of Ordinances specifying criminal penalties, the City hereby specifically provides for criminal penalties allowed by Iowa law for simple misdemeanors, for the following:

- 41.08 Discharge Firearm
- 41.09 Throwing or shooting objects
- 41.10 Urinating and Defecating
- 55.02 Animal Neglect
- 55.06 Animal at Large
- 57.03 Keeping of Vicious Animals
- 105.08 Open Dumping Prohibited
- 152.01 Removal of Weeds

*(Ord. 2016-2200 – Jan. 17 Supp.)*

**3.07 FAILURE TO PAY A CIVIL CITATION.**

1. Delinquent Offender. Delinquent Offender shall mean any person that has at least one (1) unpaid citation or municipal infraction of a violation of the Municipal Code of Ordinances that has remained unpaid for one-hundred twenty (120) days or more. It shall be a separate citable offense to be a Delinquent Offender of this Code. A Delinquent Offender administrative fee of thirty-five (\$35) may be assessed against any such offender, which fee shall be in addition to any fine otherwise due pursuant to this Code.

2. Collection. A default in the payment of a fine or penalty, or any installment of a fine or penalty, may be collected by any means allowable for the collection of monetary judgments. The City Attorney and/or a private collection agent may be retained for the purpose of collecting any default in payment or any fine or penalty or installment of a fine or penalty, or any combination thereof. Any fees or costs incurred by the City with respect to attorneys or private agents retained under this section shall be charged to the offender.

3. Denial of Licenses and Permits. In addition to any other means provided bylaw, the City may collect any past due citation fine, late payment charge, costs, taxes or fees by declining to issue or renew any license, permit, zoning variance or other permission applied for by the responsible party under the Municipal Code of Ordinances until the responsible party pays such fine, charge, costs, taxes and fees.

*(Ord. 2016-2200 – Jan. 17 Supp.)*

**3.08 HABITUAL OFFENDERS.** Habitual Offender shall mean any person that on at least three (3) occasions within a twelve (12) month period has: (1) received a citation, either civil or criminal, of a violation of the Municipal Code of Ordinances; or (2) has had abatement action initiated against any property the habitual offender owns. It shall be a separate citable offense to be a Habitual Offender of this Code. A Habitual Offender administrative fee of thirty-five (\$35) may be assessed for each citation above three (3) issued to the same violator

within any twelve (12) month period, which fee shall be in addition to any fine otherwise due pursuant to this Code.

*(Ord. 2016-2200 – Jan. 17 Supp.)*

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## CHAPTER 5

# OPERATING PROCEDURES

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

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

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

- A. Mayor
- B. City Administrator
- C. City Clerk
- D. 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, Administrator, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 21.4)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.3)*

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

*(Code of Iowa, Sec. 21.5)*

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

*(Code of Iowa, Sec. 21.7)*

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

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

*(Code of Iowa, Sec. 362.5[1])*

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

*(Code of Iowa, Sec. 362.5[2])*

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the 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[5])*

5. Newspaper. The designation of an official newspaper.

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

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

*(Code of Iowa, Sec. 362.5[7])*

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 362.5[12])*

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[13])*

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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

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

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

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

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

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

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

**5.12 REMOVAL OF ELECTED OFFICERS.**

1. Grounds. Any City officer elected by the people may be removed from office after hearing as hereinafter provided by a two-thirds vote of the entire Council for any of the following reasons:

A. Grossly neglecting or refusing to serve by failure to attend all official meetings for a period of three months or more, excusable illness or emergencies excepted, or to sign papers, carry out duties clearly incumbent upon the officer to do, or otherwise exhibit failure to serve.

B. Unable to attend any official meetings or carry out duties due to physical or mental infirmities that appear, upon careful inquiry, to be of such severe or chronic character as to preclude rendering necessary services expected of the office for six months.

C. By such mental or physical incapacity that the officer is unable to properly exercise the officer's official duties even when present or on the job.

D. Committing such acts as would be grounds for an equitable action for removal in the district court.

2. Council Hearing. The Council, upon adopting a motion setting a public hearing, shall cause notice to be given by certified mail to the officer for which removal is sought. Such notice shall be mailed not less than ten (10) or more than twenty (20) days before said hearing. In the case of severe physical or mental disability, said notice may be given to said person's attorney, or to a person holding the power of attorney, or to the next of kin if there is no known attorney, if notice to the person would not be of practical effect. Refusal by the person to accept notice, inability to deliver notice because of frequent absence from the person's usual place of abode for extended periods, or other cause of failure to complete notice may be noted at hearing, but shall not bar the proceedings if notice has been diligently tried (and the efforts recited in the record).

3. Presentation of Case for Removal. The Council shall constitute the hearing body for other than Council members, but where a Council member is sought to be removed, the remaining members of the Council shall constitute the hearing body. The Council, at the time of making motion to hold a hearing for considering the removal of an elected officer, shall designate the president of the hearing, who shall be the Mayor in all cases except that if the Mayor is the one sought to be removed, it shall be the Mayor Pro-Tempore. The Council shall name one of its members to present the cause for removal, and municipal officers possessing pertinent facts shall provide such data upon request, including attendance record and testimony in writing and the above data shall be presented as written affidavits. If medical or other professional evaluations are needed, depositions may be taken and presented unless personal testimony of such authorities is deemed necessary to more fully understand the circumstances.

4. Declaration of Vacancy. If it appears from the facts established at the hearing that grounds for removal exist, the Council may order removal of the person from office and declare the office vacant, but only upon a two-thirds (2/3) vote of the entire Council. Said removal shall take effect the date after said vote and order. Where removal is consummated, the vacancy shall be filled promptly in the manner prescribed by law for filling vacancies in positions filled by election by the people.

The record of the hearing shall be entered in the proceedings of the Council and the written charges, data, and affidavits be safely filed with the municipal records.

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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**

**6.07 Election Precinct**

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

**6.04 PREPARATION OF PETITION AND AFFIDAVIT.** Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be in substantially 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])*

**6.07 ELECTION PRECINCT.** For the purpose of best serving the convenience of the voters, there is established the following election precinct within the City.

1. Precinct No. 1. Election Precinct No. 1 shall be the real property as detailed on the map on file in the office of the City Clerk.
2. Polling Places. Polling places shall be determined by the Polk County Election Commissioner to best serve the needs of the precinct.

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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 Administrator and/or Finance Officer is the finance and accounting officer of the City and is responsible for the administration of the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than March 1 of each year.

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10)

nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.

3. Checks. Checks shall be prenumbered and signed by any two of the following: City Clerk, City Administrator, Finance Officer, Mayor or Mayor Pro Tem following Council approval, except as provided by subsection 5 hereof. Notwithstanding anything contained herein, no City employee or official shall sign any check which authorizes payment to the person signing the check.

*(Ord. 2008-800 – Dec. 08 Supp.)*

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

5. Immediate Payment Authorized. The Council may by resolution authorize the Finance Officer or 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 at the first regular meeting each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.

2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the 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**

<b>EDITOR'S NOTE</b>		
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.		
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>NAME OF AREA</b>
89-108	June 26, 1989	Knapp Project
89-111	September 11, 1989	Lint Project
90-102	August 13, 1990	Amend Urban Renewal District
91-1100	July 22, 1991	West Trunk Area
94-101	March 14, 1994	Goldfinch Park Project
94-108	May 23, 1994	Arrow Ridge Plat 1
95-113	September 25, 1995	Park Place Project
95-114	September 25, 1995	Arrow Ridge Plat 2
96-500	August 26, 1996	Kum & Go Site
96-600	August 26, 1996	Sandpiper Point Plat 1
96-1000	December 9, 1996	Black Forest
2010-1200	April 12, 2010	Urban Renewal Project Area II
2010-1300	April 12, 2010	Koester Construction TIF Area
2016-2800	December 12, 2016	Amended Area II Urban Renewal Area
2016-2900	December 12, 2016	Deer Haven Urban Renewal Area

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**CHAPTER 9**  
**URBAN REVITALIZATION PLAN**

<b>9.01 Title</b>	<b>9.10 Qualifications for Eligibility</b>
<b>9.02 Adoption of Plan</b>	<b>9.11 Tax Exemption Schedule</b>
<b>9.03 Basis of Plan</b>	<b>9.12 Application Requirements</b>
<b>9.04 Revitalization of Land Assessed as Agricultural Property</b>	<b>9.13 Prior Approval</b>
<b>9.05 Description of Revitalization Area</b>	<b>9.14 Allowable Benefits – Basis of Tax Exemption for Property Assessed as Commercial Use for Residential Purposes</b>
<b>9.06 Assessed Valuations</b>	<b>9.15 Time Limit – Prior Approval</b>
<b>9.07 Zoning</b>	<b>9.16 Relocation Provisions</b>
<b>9.08 Type of Construction</b>	<b>9.17 Duration</b>
<b>9.09 Allowable Benefits – Basis of Tax Exemption</b>	

**9.01 TITLE.** This chapter shall constitute the Urban Revitalization Plan for the City of Polk City, Iowa, and may be referred to as the Polk City, Iowa, Urban Revitalization Plan.

**9.02 ADOPTION OF PLAN.** The urban revitalization plan, a copy of which is on file in the office of the City Clerk, and by this reference made a part hereof, is adopted for the purpose of outlining procedures whereby the areas designated herein can be revitalized, and the potential for commercial and industrial growth can be enhanced in accordance with the current comprehensive plan of the City of Polk City, as may be amended, and pursuant to the provisions of Chapter 404 of the Code of Iowa.

**9.03 BASIS OF PLAN.** It has been determined that the area that lies within the tax abatement area contains an area which has tax and special assessment delinquencies far exceeding the actual value of the land, and that by reason thereof, certain special assessment bonds are in default. That such defaults, if allowed to continue, will impair the sound growth of this community, in that the City's ability to construct improvements through the use of future special assessment bonds has been jeopardized. Further, the areas lying within the tax abatement area cannot presently be developed due to inadequate street layout, incompatible land-use relationships, faulty lot layout in relation to size, and lack of public utilities. In addition, without tax abatement, it is extremely unlikely that said areas will ever be developed for commercial, or industrial growth, due to the substantial cost involved in developing the property.

**9.04 REVITALIZATION OF LAND ASSESSED AS AGRICULTURAL PROPERTY.** All land lying within the prescribed zoning districts, assessed as agricultural property, is being included within the urban revitalization area, specifically for the reason that a great majority of such land is subject to special assessments which exceed the market value of said land. It is not possible to encourage the growth of Polk City, except through use of land assessed as agricultural property, due to the fact that the undeveloped land in Polk City is assessed as agricultural property. A failure to include said agricultural land within the urban revitalization area would be unjust and unfair to the property owners of said land, and would defeat the purpose of this urban revitalization plan.

**9.05 DESCRIPTION OF REVITALIZATION AREA.** The area designated for the urban revitalization plan of the City of Polk City, Iowa, is designated as the entire area lying within the corporate limit boundaries of the City of Polk City, Polk County, Iowa. (For legal description of revitalization area see Map 1 and Appendix A of urban revitalization plan prepared by Snyder & Associates.)

**9.06 ASSESSED VALUATIONS.** The listing of assessed valuations of record of all real estate lying within the urban revitalization area is contained in Appendix B of the urban revitalization plan.

**9.07 ZONING.** The land falling within the urban revitalization area is zoned according to the zoning ordinance of the City of Polk City, Iowa. References herein to certain zoning classifications are made with reference to and controlled by such ordinance which may be amended from time to time. It is assumed that much of the land lying within the urban revitalization area will remain used as agricultural property until such time as it is developed. It is the purpose of this chapter to encourage and promote commercial and industrial growth.

**9.08 TYPE OF CONSTRUCTION.** The urban revitalization plan includes the remodeling, rehabilitation and addition to existing buildings, as well as the construction of new commercial and industrial facilities. Provided, however, that nothing in this chapter shall be deemed to provide an exemption from taxation for valuation added through the installation of public improvements, such as streets, sewers, water, and other improvements to land or use by the public.

**9.09 ALLOWABLE BENEFITS - BASIS OF TAX EXEMPTION.** The following classes of property are eligible to receive an exemption from taxation, based upon the actual value added by improvements to that property, made subsequent to the adoption of the ordinance codified in this chapter. Said exemption from taxation shall be in accordance with the tax exemption schedules established under Section 9.11.

1. Property Assessed As Commercial. New construction of principal use structures and permitted accessory use structures and the construction for additions, remodeling and rehabilitation to existing principal and accessory use structures.
2. Property Assessed As Industrial. New construction of principal use structures and permitted accessory use structures, and the construction for additions, remodeling and rehabilitation to existing principal and accessory use structures.

**9.10 QUALIFICATIONS FOR ELIGIBILITY.** Improvements satisfying the eligibility requirements of Section 9.09 of this chapter shall qualify for tax exemption under Section 9.12 of this chapter, provided they satisfy all of the following requirements:

1. The improvements must have been added during the time the area has been designated a revitalization area.
2. Improvements consisting of rehabilitation or additions to existing buildings must have increased the actual value of the qualified real estate by at least 15 percent.
3. The improvements must be completed in accordance with all applicable zoning and other regulations of the City.
4. The improvements must be in conformity with the applicable proposed land use shown in the Polk City Comprehensive Plan, or Council approved modifications of the Comprehensive Plan.

**9.11 TAX EXEMPTION SCHEDULE.** Tax exemption on qualifying improvements shall follow one of two optional schedules. Eligible property owners, as defined in Section 9.09, may choose either option one or two. Once the choice has been made and the exemption granted, the owner is not permitted to change the method of exemption. Exemption schedule options are:

1. Option One. All qualified real estate is eligible to receive a fifty percent (50%) exemption from taxation on the actual value added by the improvements. The exemption is for a period of seven (7) years.
2. Option Two. All qualified real estate is eligible to receive a one hundred percent (100%) exemption from taxation on the actual value added by the improvements. The exemption is for a period of three (3) years.
3. Eligible Benefits. Notwithstanding anything contained elsewhere, qualified real estate shall not receive property tax abatement if said real estate is the subject of a tax increment financing or tax rebate agreement.

**9.12 APPLICATION REQUIREMENTS.** An application shall be filed for each new exemption claimed. The property owner must apply for an exemption by February 1st of the assessment year for which the exemption is first claimed, but not later than February 1st of the next assessment year after the assessment year in which all improvements included in the project are first assessed for taxation. The application shall contain, but not be limited to, the following information: The nature of the improvement, its cost, the estimated or actual date of completion, the tenants that occupied the owner's building on the application date, and which exemption in Section 9.11 of this plan will be elected. Application for exemption must be made on a form obtained from the office of the Clerk, which will require the above information. The application shall be accompanied with information, including, but not limited to, construction contracts, purchase agreements, or other material sufficient to demonstrate and support the estimated value of exemption.

**9.13 PRIOR APPROVAL.** A person may submit a proposal for an improvement project to the Council to receive prior approval for eligibility for tax exemption on the project. The Council, by resolution, may give its prior approval of a tax exemption for an improvement project if it is demonstrated to the Council that the proposed project is found to be in conformance with this urban revitalization plan. Such prior approval shall not entitle the owner to exemption from taxation until the improvements have been completed and found to be qualified real estate; however, if the proposal is not approved, the person may submit an amended proposal to the Council to approve or reject. Application for prior approval must be made on the form obtained from the office of the Clerk, which requires the minimum information as stated in Section 9.12. The application shall be accompanied by information, including, but not limited to, concept plans, cost estimates, proposed uses and other materials sufficient for the Council to evaluate the proposed improvement project's compliance with this chapter.

**9.14 ALLOWABLE BENEFITS - BASIS OF TAX EXEMPTION FOR PROPERTY ASSESSED AS COMMERCIAL USE FOR RESIDENTIAL PURPOSES.**

1. Property assessed as commercial, which contains three or more separate living quarters with at least 75% of the total space in all new buildings on the property used for residential purposes, including new construction of principal use structures and permitted accessory use structures and the construction of additions, remodeling and rehabilitation to existing principal and accessory use structures, may receive an exemption from taxation, based upon the actual value added by improvements to that property, made subsequent to the adoption of the ordinance codified in this section. Said exemption from taxation shall be accordance with the tax exemption schedules established under Section 9.11.

2. Improvements satisfying the eligibility requirements of this section may qualify for tax exemption provided they satisfy all of the requirements established under Section 9.10.

3. An application shall be filed for each new exemption claimed in accordance with the application requirements established under Section 9.12. Upon an applicant complying with Section 9.12, the Clerk shall place the application on the next available Council agenda. Thereafter, the Council may, by resolution, give its approval for tax exemption if it determines that the potential for commercial and industrial growth can be enhanced in accordance with the comprehensive plan of the City by approval of the application.

**9.15 TIME LIMIT - PRIOR APPROVAL.** All prior approval applications for an improvement project, whether submitted under Section 9.13 or Section 9.14, approved by the Council under the plan, shall remain in effect until three (3) full calendar years from and after the date of said resolution approving the application. If improvements are not in place by that date, prior approval is null and void.

**9.16 RELOCATION PROVISIONS.**

1. Benefits. Upon application for and verification of eligibility for tax abatement to a property owner by the City, qualified tenants in designated areas whose displacement was due to action on the part of property owner to qualify for said tax abatement under this plan, shall be compensated by the property owner for one month's rent and for actual reasonable moving and related expenses.

2. Eligibility. "Qualified Tenant", as used in this section shall mean the legal occupant of a residential dwelling unit which is located within a designated revitalization area, and who has occupied the same dwelling unit continuously since one year prior to the City's adoption of this section.

3. Actual Reasonable Moving and Related Expenses. A qualified tenant of a dwelling is entitled to actual reasonable expenses for:

A. Transportation of the displaced person and personal property from the displacement to the replacement site. Transportation costs for a distance beyond 25 miles are not eligible.

B. Packing, crating, unpacking and uncrating of personal property.

C. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.

4. Least Costly Approach. The amount of compensation for an eligible expense shall not exceed the least costly method of accomplishing the objective of the compensation without causing undue hardship to the displaced tenant and/or landlord.

**9.17 DURATION.** The above-described area shall be eligible for tax abatement under the revitalization plan for a period beginning on the effective date of the ordinance codified in this chapter, and it shall remain in effect thereafter until such time as the Council believes that the desired level of revitalization has been attained, or that economic conditions are such that the continuation of the revitalization plan would cease to be a benefit to the City and the Council institutes action to repeal the urban revitalization ordinance, as is provided in Iowa Code Section 404.7.

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## CHAPTER 10

# HOTEL AND MOTEL TAX

**10.01 Definitions**  
**10.02 Tax Imposed**  
**10.03 Exemptions**

**10.04 Restrictions**  
**10.05 Effective Date**

**10.01 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates different intention, the following terms shall, for the purpose of this chapter, have the meanings in this section:

1. “Lodging” means rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, room house or manufactured or mobile homes which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals.
2. “Renting” or “rent” means a transfer of possession or control of lodging for a fixed or indeterminate terms for consideration and includes any kind of direct or indirect charge for such lodging or its use.

**10.02 TAX IMPOSED.** There is imposed a seven percent (7%) hotel and motel tax upon the gross receipts from the rent of any and all lodging within the corporate boundaries of the City of Polk City, Iowa.

**10.03 EXEMPTIONS.** The exemptions from said tax as set forth in Iowa Code § 423A.5, as amended, are adopted by reference and made a part hereof as though fully set forth herein.

**10.04 RESTRICTIONS.** The revenue derived from the tax imposed in this chapter shall be used for the purposes supporting local and regional recreation, convention, cultural and entertainment facilities, for the promotion and encouragement of tourist and convention business, and for other purposes permitted by Chapter 423A of the Code of Iowa (2013).

**10.05 EFFECTIVE DATE.** The tax as set forth in this chapter shall be imposed on all gross rent receipts received on or after January 1, 2014.

*(Ch. 10 - Ord. 2013-1500 – Jan. 14 Supp.)*

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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 four (4) years.  
*(Code of Iowa, Sec. 376.2)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 372.4)*

1. Police Chief
2. Library Board of Trustees
3. Park Commissioners
4. Historic Preservation Commission
5. Tree Board
6. Zoning Board of Adjustment

**15.04 COMPENSATION.** The salary of the Mayor is seven thousand five hundred (\$7,500) per year payable monthly. In addition, the Mayor shall receive a reimbursement of 50% of the cost of a single membership to a fitness center located within the city limits of Polk City.

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

*(Ord. 2013-900 – Jan. 14 Supp.)*

**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 fifteen (15) days or more, the Mayor Pro Tem may be paid for that period the compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.

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

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## CHAPTER 17

### COUNCIL

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

17.04 Council Meetings  
17.05 Appointments  
17.06 Compensation

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

*(Code of Iowa, Sec. 372.4 & 376.2)*

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 38.10)*

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])*

8. Waiver of Fees. In addition to the powers of the Council specifically enumerated in this section, the Council shall have the authority, by resolution, to waive the collection of the charges imposed for sewer connection fees under Section 96.02, the collection of the meter deposit under Section 99.04, the collection of water connection fees under Section 90.06, and the collection of building permit fees under Section 156.08, if such waiver is requested by the Federal government, the State, the school district or any other political subdivision of the State, and provided that the granting of such waiver is in the best interest of the citizens of the City.

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

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

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

*(Ord. 2007-1500 – Dec. 07 Supp.)*

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

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

days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

*(Code of Iowa, Sec. 380.4)*

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

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

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

3. Quorum. A majority of all Council members is a quorum.

*(Code of Iowa, Sec. 372.13[1])*

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

5. Compelling Attendance. Any three (3) 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 Administrator
3. City Attorney
4. Planning and Zoning Commission
5. Deputy City Clerk

**17.06 COMPENSATION.** The salary of each Council member is three thousand (\$3,000) per year. In addition, Council members shall receive a reimbursement of 50% of the cost of a single membership to a fitness center located within the city limits of Polk City.

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

*(Ord. 2013-900 – Jan. 14 Supp.)*

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## CHAPTER 18

# CITY CLERK

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

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

**18.01 APPOINTMENT AND COMPENSATION.** At its first meeting in January each year the Council shall appoint by majority vote a City Clerk to serve for a term of one (1) year. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

**18.03 PUBLICATION OF MINUTES.** The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the 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 PUBLICATION.** The Clerk shall cause to be published all ordinances, enactments, proceedings and official notices requiring publication as follows:

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

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

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

City Hall  
Post Office  
Library

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

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

*(Ord. 2017-400 – Jan 18 Supp.)*

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

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

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election.

*(Code of Iowa, Sec. 376.6)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

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## CHAPTER 19

# CITY TREASURER

**19.01 Appointment**  
**19.02 Compensation**

**19.03 Duties of Treasurer**

**19.01 APPOINTMENT.** The Finance Officer is the Treasurer and performs all functions required of the position of Treasurer.

**19.02 COMPENSATION.** The Finance Officer 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 which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.

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

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

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

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

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

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

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

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

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

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## CHAPTER 21

# LIBRARY BOARD OF TRUSTEES

21.01 Public Library  
21.02 Library Trustees  
21.03 Qualifications of Trustees  
21.04 Organization of the Board  
21.05 Powers and Duties  
21.06 Contracting with Other Libraries  
21.07 Nonresident Use

21.08 Expenditures  
21.09 Annual Report  
21.10 Injury to Books or Property  
21.11 Theft  
21.12 Notice Posted  
21.13 Absenteeism

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

**21.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five (5) resident members. All members are to be appointed by the Mayor with the approval of the Council.

**21.03 QUALIFICATIONS OF TRUSTEES.** All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years.

**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 (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall

have been fixed and approved by a majority of the members of the Board voting in favor thereof.

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

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

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

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

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

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

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

*(Code of Iowa, Ch. 661)*

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

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

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

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

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



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

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

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

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

*(Code of Iowa, Sec. 384.20 & 392.5)*

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to

return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

**21.13 ABSENTEEISM.** Any Board Member may be removed from the Board by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Board. Any Board Member may be removed from the Board for good and sufficient cause upon recommendation of the Board, with the concurrence of the Mayor and the City Council. In addition, two (2) unexcused absences, or three (3) total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Board. The Mayor shall appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

*(Ord. 2016-1000 – Jan. 17 Supp.)*

## 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  
22.06 Absenteeism

**22.01 PLANNING AND ZONING COMMISSION.** The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven (7) 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 (5) years. The terms of not more than one-third of the members will expire in any one year.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have

been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

6A. Appeal Board for Flood Plain Management. Act as an appeal board upon request in specific cases to decide requested variances from the terms of Code of Ordinances of the City of Polk City, Chapter 162.

*(Ord. 2014-700 – Jan. 15 Supp.)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

**22.06 ABSENTEEISM.** Any Commission Member may be removed from the Commission by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Commission. Any Commission Member may be removed from the Commission for good and sufficient cause upon recommendation of the Commission, with the concurrence of the Mayor and the City Council. In addition, two (2) unexcused absences, or three (3) total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Commission. The Mayor shall appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

*(Ord. 2016-500 – Jan. 17 Supp.)*

## CHAPTER 23

# PARK COMMISSION

23.01 Park Commission Established  
23.02 Composition; Term of Office  
23.03 Organization  
23.04 Compensation  
23.05 Program Planning Duty

23.06 Rules and Regulations  
23.07 Meetings  
23.08 Absenteeism  
23.09 Reports

**23.01 PARK COMMISSION ESTABLISHED.** There is hereby established a park commission of the City as an advisory body to advise and assist the Council in exercising its power to establish, purchase, maintain and regulate the use of swimming pools, parks and playgrounds, and to provide swimming pools, recreational and playground facilities. The Park Commission has authority to expend funds from its budget in an amount not to exceed one thousand dollars (\$1000.00) for any single expenditure without prior approval of the Council.

**23.02 COMPOSITION; TERMS OF OFFICE.** The Park Commission consists of seven (7) members whose terms of office shall be five (5) years, on a staggered basis, and who are appointed by the Mayor, subject to the approval of the Council. A majority of the members of the Park Commission constitutes a quorum, and it is necessary that a quorum be present for the Park Commission to conduct its business.

*(Ord. 2014-200 – Jan. 15 Supp.)*

**23.03 ORGANIZATION.** All commission members shall organize as a board by the election of one of their number as Chairperson and one as Secretary.

**23.04 COMPENSATION.** All commission members serve without compensation except for their actual expenses, which are subject to the approval of the Council.

**23.05 PROGRAM PLANNING DUTY.** Subject to the approval of the Council, it is the duty of the Park Commission to plan the City's parks and recreational programs, to care for, supervise, control and improve such parks and programs.

**23.06 RULES AND REGULATIONS.** The Park Commission may, in writing, prescribe rules and regulations for the government of the park grounds and persons resorting thereto. Such rules and regulations are subject to the approval of the Council and may be enacted into ordinance by the Council.

**23.07 MEETINGS.** The Park Commission shall meet at such times as necessary to properly carry out its duties. A meeting shall be called upon the request of the Chairperson, the Secretary, or any two other members of the Commission. A three-day notice period shall occur before any meeting, except in cases of an emergency, and notification to the public shall occur as ordered by State law.

**23.08 ABSENTEEISM.** Any Commission Member may be removed from the Commission by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Commission. Any Commission Member may be removed from the Commission for good and sufficient cause upon recommendation of the Commission, with the concurrence of the

Mayor and the City Council. In addition, two (2) unexcused absences, or three (3) total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Commission. The Mayor shall appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

*(Ord. 2016-600 – Jan. 17 Supp.)*

### **23.09 REPORTS.**

1. The Park Commission shall make regular reports to the Council of its proceedings, recommendations and expenditures.
2. The Park Commission shall make an annual report to the Council which shall contain a statement of its activities during the preceding year and recommendations for proposed activities for future years.

## CHAPTER 24

# HISTORIC PRESERVATION COMMISSION

24.01 Purpose and Intent

24.02 Definitions

24.03 Structure of the Commission

24.04 Powers of the Commission

24.05 Absenteeism

**24.01 PURPOSE AND INTENT.** The purposes of this chapter are to:

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement and perpetuation of sites and districts of historical and cultural significance;
2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;
3. Stabilize and improve property values;
4. Foster pride in the legacy of beauty and achievements of the past;
5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;
6. Strengthen the economy of the City;
7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

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

1. "Commission" means the Polk City Historic Preservation Commission, as established by this chapter.
2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:
  - A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or
  - C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or
  - D. Is associated with the lives of persons significant in our past; or
  - E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. “Historic site” means a structure or building which:
  - A. Is associated with events that have made a significant contribution to the broad patterns of our history; or
  - B. Is associated with the lives of persons significant in our past; or
  - C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - D. Has yielded, or may be likely to yield, information important in prehistory or history.

#### **24.03 STRUCTURE OF COMMISSION.**

1. The Commission consists of five (5) members who are residents of the City.
2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general or real estate.
3. The Commission members are appointed for staggered terms of three (3) years. Members may serve for more than one term. Each member shall serve until the appointment of a successor.
4. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.
5. Members shall serve without compensation.
6. A simple majority of the Commission shall constitute a quorum for the transaction of business.
7. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission’s proceedings.
8. The Commission shall meet at least three (3) times a year.

#### **24.04 POWERS OF THE COMMISSION.**

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon a petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.
2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.
3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.



4. The Commission may appoint three (3) members to a local design review committee, which committee shall have the power to review applications for the Main Street Linked Investments for Tomorrow program. Projects receiving preliminary design review approval from this committee will be submitted to the State Main Street LIFT Design Review Board.
5. In addition to those duties and powers specified above, the Commission may, with Council approval,
  - A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;
  - B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;
  - C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission;
  - D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
  - E. Contract with State or Federal government or other organizations;
  - F. Cooperate with Federal, State and local governments in the pursuance of the objectives of historic preservation;
  - G. Provide information for the purpose of historic preservation to the Council; and
  - H. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

**24.05 ABSENTEEISM.** Any Commission Member may be removed from the Commission by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Commission. Any Commission Member may be removed from the Commission for good and sufficient cause upon recommendation of the Commission, with the concurrence of the Mayor and the City Council. In addition, two (2) unexcused absences, or three (3) total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Commission. The Mayor shall appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

*(Ord. 2016-700 – Jan. 17 Supp.)*

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## CHAPTER 25

# CITY ADMINISTRATOR

25.01 Appointment and Term  
25.02 Compensation

25.03 Administrative Responsibility  
25.04 Duties

**25.01 APPOINTMENT AND TERM.** The Council shall appoint by majority vote a City Administrator to serve at the discretion of the Council.

**25.02 COMPENSATION.** The City Administrator shall receive such annual salary as the Council shall from time to time establish by resolution.

**25.03 ADMINISTRATIVE RESPONSIBILITY.** The City Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Administrator and all Council involvement in administration initiated by the Council must be coordinated through the City Administrator.

**25.04 DUTIES.** The City Administrator shall have the following powers and duties:

1. Administration. Supervise and direct the administration of the City government.
2. Supervise Officers. Supervise and direct the official conduct of all appointed officers of the City.
3. Manage Property. Manage all buildings and property under the jurisdiction of the City.
4. Personnel. Appoint, promote, reassign, reclassify, discipline, demote, and discharge all employees in compliance with policy, law and/or ordinance. Employ any person for emergency purposes as deemed necessary for the welfare of the City.
5. Compensation of Employees. Fix the compensation of all employees appointed by him or her, subject to the approval of the Council.
6. Investigation. Investigate, summarily and without notice, the conduct and affairs of any department, agency, officer, or employee of the City.
7. Law Enforcement. Supervise the enforcement and execution of all laws and ordinances within the City.
8. Contracts. Supervise the performance of all contracts for work to be done for the City.
9. Purchasing. Supervise the purchase and receipt of all materials, services, and supplies for and on behalf of the City. Authorize purchases for budgeted items up to \$10,000 without further Council authorization.
10. Public Works. Supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for capital improvements.

11. Attend Meetings. Attend all meetings of the Council and City administrative agencies.
12. Recommendations. Recommend to the Council any measures as are necessary or expedient for the good government and general welfare of the City.
13. Cooperation. Cooperate with any administrative agency of the City.
14. Accounting. Supervise the City Finance Officer and ensure that the business affairs of the City are conducted by modern and efficient accounting methods and cause accurate records to be kept
15. Budget. Prepare and submit to the Council annually the required budgets.
16. Financial Reports. Submit a written, itemized financial report to the Council each month, showing receipts, disbursements, and investments for the preceding month.
17. Licenses. Provide for the issuance, suspension, and revocation of all licenses and permits authorized or required by law or ordinance.
18. Oaths. Administer oaths.
19. Other. Exercise such other powers and perform such other duties as may be directed by the Council.

*(Ord. 2017-100 – Jan. 18 Supp.)*

## CHAPTER 26

# CITY TREE BOARD

26.01 Establishment  
26.02 Term of Office  
26.03 Duties and Responsibilities

26.04 Procedure  
26.05 Absenteeism

**26.01 ESTABLISHMENT.** There is hereby created and established a City Tree Board. The Board shall consist of not less than five (5) members. The exact number of Board members may vary from year to year. A majority of the Board shall be residents of the City and shall be appointed by the Mayor with approval of the Council. Members shall serve without compensation.

*(Ord. 2009-500 – Dec. 09 Supp.)*

**26.02 TERM OF OFFICE.** Members of the City Tree Board are appointed for staggered terms of five years, commencing January 1 of the year of appointment. In the event a vacancy shall occur during the term of any member, the Mayor shall appoint a successor for the unexpired portion of the term with the approval of the Council.

**26.03 DUTIES AND RESPONSIBILITIES.** It shall be the duty and responsibility of the City Tree Board to establish a list of acceptable tree species to be planted in the public right-of-way and to provide such list to the Clerk for public inspection and copying. The Board shall have the authority, from time to time, to update and amend said list. It shall be the further duty and responsibility of the Board to review and give advice to the Public Works Director concerning approval of plans submitted pursuant to Section 151.03 of this Code of Ordinances. It is further the duty and responsibility of the Board to study, investigate, report on and make recommendations to the Council on issues related to the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The Board shall make a report to the Council at least annually. The Board, when requested by the Council, shall consider, investigate, make findings, report and make recommendations upon any special matter or question coming within the scope of its work. The Board shall not make, or commit the City to make, any expenditure of public funds except upon the prior approval of the Council.

**26.04 PROCEDURE.** The Board shall choose its own officers, determine its meeting times and establish its own rules and regulations regarding the conduct of its meetings and the carrying out of its duties and responsibilities. The Board shall keep written minutes of its meetings and shall comply with open meeting requirements. A majority of the Board members shall constitute a quorum for the transaction of its business.

**26.05 ABSENTEEISM.** Any Board Member may be removed from the Board by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Board. Any Board Member may be removed from the Board for good and sufficient cause upon recommendation of the Board, with the concurrence of the Mayor and the City Council. In addition, two (2) unexcused absences, or three (3) total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Board. The Mayor shall

appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

*(Ord. 2016-800 – Jan. 17 Supp.)*

## CHAPTER 27

# ARTS COUNCIL

27.01 Established; Purpose  
27.02 Composition; Terms of Office  
27.03 Organization  
27.04 Compensation

27.05 Program Planning Duty  
27.06 Prescription of Rules and Regulations  
27.07 Absenteeism

**27.01 ESTABLISHED; PURPOSE.** There is established an Arts Council of the City which shall serve as an advisory board to advise and assist the Council in the promotion of performing and fine arts within the City.

**27.02 COMPOSITION; TERMS OF OFFICE.** The Arts Council consists of five members whose term of office is five years on a staggered basis and who are appointed by the Mayor subject to the approval of the Council. The Mayor shall appoint said members who are recognized for their interest or experience in connection with the performing and fine arts. In making appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups concerned or engaged in the production or presentation of the performing and fine arts.

**27.03 ORGANIZATION.** The Arts Council members shall organize as a Council by election of one member as Chairperson and one as Secretary.

**27.04 COMPENSATION.** All board members shall serve without compensation except for their actual expenses, which shall be reimbursed, subject to the approval of the Council, only from available funds on deposit with the City. Funds available for this purpose shall be funds deposited by or under the direction of the Arts Council through fundraising activities where such money is deposited and earmarked for such purpose.

**27.05 PROGRAM PLANNING DUTY.** It shall be the duty of the Arts Council to promote and to further activities which benefit the performing and fine arts within the City, including activities undertaken for the purpose of funding appropriate art-related projects.

**27.06 PRESCRIPTION OF RULES AND REGULATIONS.** The Arts Council may, in writing, prescribe rules and regulations for the conduct of its meetings and shall make an annual report to the Council which shall contain a summary of its activities during the preceding year and recommendations for proposed activities for the succeeding year.

*(Ch. 27 – Ord. 2011-800 – Jan. 12 Supp.)*

**27.07 ABSENTEEISM.** Any Member may be removed from the Arts Council by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Arts Council. Any Member may be removed from the Arts Council for good and sufficient cause upon recommendation of the Arts Council, with the concurrence of the Mayor and the City Council. In addition, two (2) unexcused absences, or three (3) total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Arts

Council. The Mayor shall appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

*(Ord. 2016-900 – Jan. 17 Supp.)*

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## CHAPTER 30

# POLICE DEPARTMENT

30.01 Department Established  
30.02 Organization  
30.03 Peace Officer Qualifications  
30.04 Required Training  
30.05 Compensation

30.06 Police Chief Appointed  
30.07 Police Chief: Duties  
30.08 Departmental Rules  
30.09 Summoning Aid  
30.10 Taking Weapons

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

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

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

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

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

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

**30.06 POLICE CHIEF APPOINTED.** The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.  
*(Code of Iowa, Sec. 372.4)*

**30.07 POLICE CHIEF: DUTIES.** The Police Chief has the following powers and duties subject to the approval of the Council.  
*(Code of Iowa, Sec. 372.13 [4])*

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

*(Code of Iowa, Sec. 321.266)*

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

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

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

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

## CHAPTER 31

# RESERVE POLICE UNIT

31.01 Definition

31.02 Purpose

31.03 Membership Requirements

31.04 Physical Examination

31.05 Organization and Supervisor

31.06 Removal

31.07 Rules and Regulations

31.08 Employment Status

31.09 Benefits

31.10 Insurance

31.11 Training

31.12 Certification

31.13 Uniform and Insignia

31.14 Use of Firearms

31.15 Records

**31.01 DEFINITION.** A reserve police officer is a volunteer, non-regular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as an agency's representative and participates on a regular basis in the agency's activities including those of crime prevention and control, preservation of the peace and enforcement of the law. Reserve peace officers are vested with the same rights, privileges, obligations and duties as any other peace officers while in the actual performance of official duties.

**31.02 PURPOSE.** The purpose of the ordinance codified in this chapter is to provide for the establishment and operation of a Reserve Police Unit for the City, as set forth in Chapter 80D of the Code of Iowa.

### **31.03 MEMBERSHIP REQUIREMENTS.**

1. Membership in the Reserve Police Unit is determined upon standards set by the Police Chief with the approval of the Mayor.
2. Applicants and members of the Reserve Police Unit shall be residents of the City or as established and determined by the Police Chief.
3. Each candidate for the Reserve Police Unit shall make written application and such applicant shall be fingerprinted and investigated as to the applicant's past to satisfy all security measures. An applicant may also be requested to take a polygraph based on the applicant's background and application statements.
4. All applicants shall be appointed to such membership in the Reserve Police Unit by the Police Chief, only after being recommended to such unit by the Reserve Police Captain, and such appointment shall have the approval of the Mayor and Council.

**31.04 PHYSICAL EXAMINATION.** No person shall be appointed to the Reserve Police Unit until such person has satisfactorily completed a physical examination under the standards approved by the Police Chief.

### **31.05 ORGANIZATION AND SUPERVISOR.**

1. The Police Chief is responsible for the activity of the Unit and shall appoint a regular force peace officer as the reserve force coordinator and supervising officer. The regular peace officer shall report directly to the Police Chief.
2. Reserve peace officers shall be subordinate to regular peace officers, and shall not serve as peace officers unless under the direction of a regular peace officer.

**31.06 REMOVAL.** The members of the Reserve Police Unit shall serve at the discretion of the Police Chief and they shall be removed and discharged from such positions and their City employment terminated by the Police Chief and such removal may be without cause and/or recommended by the Reserve Police Captain.

**31.07 RULES AND REGULATIONS.** The Reserve Police Unit may adopt such rules and regulations or bylaws, not inconsistent with the ordinances of the City or laws of the State or the rules and regulations of the Police Department, as the members thereof shall deem advisable. Such rules and regulations or bylaws, if adopted, shall become effective only upon the approval of the Police Chief.

**31.08 EMPLOYMENT STATUS.** Members of the Reserve Police Unit shall be considered employees of the City during those periods when they are performing police duties as authorized and/or directed by the Police Chief and they shall receive a salary from the City as recommended by the Police Chief.

**31.09 BENEFITS.** Members of the Reserve Police Unit shall be covered by worker's compensation insurance while performing police duties and shall receive hospital and medical assistance and benefits as provided in Chapter 85 of the Code of Iowa to members of the reserve force who sustain injury in the course of performing official duties, but shall not be included under or share any of the benefits or obligations contained in the Police Retirement System.

**31.10 INSURANCE.** Liability and false arrest insurance shall be provided by the Council to members of the reserve force while performing official duties in the same manner as for regular peace officers.

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

*(Ord. 2007-1600 – Dec. 07 Supp.)*

**31.12 CERTIFICATION.** Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer.

*(Ord. 2007-1600 – Dec. 07 Supp.)*

**31.13 UNIFORM AND INSIGNIA.**

1. Reserve peace officers shall wear a uniform prescribed by the Police Chief unless the Chief or a superior officer designated alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients.

2. When such reserve officer is wearing a uniform, a badge issued by the Police Chief shall be worn upon such reserve officer's outer garment in plain view, which uniform and badge shall identify said person's status as a reserve peace officer.

3. The Police Chief shall issue an identification card to each reserve peace officer after such member of the Reserve Police Unit has been certified by the Police

Chief. Officers shall carry their identification cards while in the performance of official duties.

4. Reserve peace officers shall not wear an insignia of rank.

**31.14 USE OF FIREARMS.** Members of the Reserve Police Unit shall carry a firearm on their persons, subject to the following:

1. Said reserve officer has been approved by the Council and certified by the Iowa Law Enforcement Academy Council.
2. Said reserve officer has a valid gun permit obtained for the purpose of reserve peace officer.
3. Said firearm is carried only after qualifying on the range as prescribed by the range master.
4. Said firearm shall be carried while in the actual performance of official duties.
5. Said firearm shall be used only as a defense weapon and/or in accordance with the Code of Iowa and the City's police rules and regulations pertaining to use of force.

**31.15 RECORDS.** The Police Chief shall keep an accurate record of all members of the Reserve Police Unit, their dates of admission, training and discharge.

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## CHAPTER 35

# FIRE AND RESCUE DEPARTMENT

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

35.09 Procedures and Guidelines  
35.10 Accidental Injury Insurance  
35.11 Liability Insurance  
35.12 Calls Outside Fire District  
35.13 Mutual Aid  
35.14 Authority to Cite Violations  
35.15 Rescue Service

**35.01 ESTABLISHMENT AND PURPOSE.** A volunteer fire and rescue department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, to answer all emergency calls for which there is no other established agency, and to provide emergency rescue and ambulance service resulting from fire, accident or illness; and to undertake all other duties imposed upon said Fire and Rescue Department either by the Council or the laws of the State.

*(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 FIRE CHIEF APPROVED BY COUNCIL.** The Fire Chief shall be appointed for a two year term by the Mayor and approved by a majority of the Council members. Appointments will be made in January of the even numbered years.

*(Ord. 2008-1000 – Dec. 08 Supp.)*

**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 APPOINTMENT OF OFFICERS.** The Fire Chief shall appoint such other officers as determined to be needed by the department, which officers shall be subject to approval of a majority of the Council members. In the absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

*(Ord. 2008-1000 – Dec. 08 Supp.)*

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

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

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

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

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

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

*(Code of Iowa, Sec. 100.2 & 100.3)*

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*



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

*(Code of Iowa, Sec. 100.4)*

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

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

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

**35.09 PROCEDURES AND GUIDELINES.** The department may adopt policies and standard operating guidelines as deemed calculated to accomplish the objectives of the Fire Department.

*(Ord. 2008-1000 – Dec. 08 Supp.)*

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 100.41)*

**35.15 RESCUE SERVICE.**

1. Definitions. The phrase “rescue service” as used in this chapter means transportation of a person to a medical facility for medical treatment. “Rescue service” does not include emergency medical services rendered where the person to whom such services are rendered is not transported. “Medical facility” means any hospital, clinic or other facility which provides medical services to persons. The term “resident” means any person who maintains a permanent residence within the boundaries of Madison Township (including the City of Polk City). “Nonresident” means all other persons.
2. Fees.
  - A. Emergency response service fees charged shall be those fees as established by the Fee Schedule adopted by resolution of the Council.
  - B. Invoices for services shall be sent to the insurance company and/or user receiving the services, transportation or supplies of the Fire Department.
  - C. Nothing in this section shall authorize the Fire Department to refuse to provide service to any person, business or other entity that has not paid for services previously provided or that owes money for services previously rendered.

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## 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 thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

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

1. The reasonable cleanup costs incurred by the City or agent 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 agent 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 or agent of 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 responding costs incurred by the City or the agents of the City.

*(Ord. 2009-900 – Dec. 09 Supp.)*

**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 (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief, who shall then notify the Department of Natural Resources.

**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

# RAPID ENTRY LOCK BOX SYSTEM

37.01 Establishment and Purpose

37.02 Definition

37.03 Rapid Entry Lock Box Required

37.04 Key Box Installation Requirements

37.05 Keys Required

37.06 Access to Fire Department

37.07 Update of Keys and Information

37.08 Limitation of Liability

**37.01 ESTABLISHMENT AND PURPOSE.** It is recognized by the City the importance of providing the Fire Department rapid entry into locked buildings. The delay in gaining entry can result in substantial property damage, the potential for fire extension and increased danger for the firefighters.

**37.02 DEFINITION.** A “lock box” is a high security key vault which is listed under the UL 1610 and the UL 1037 standards, master keyed with a Medeco Biaxial Level 7 or equivalent lock. Locks will be keyed to the key configuration provided by the Polk City Fire Department.

**37.03 RAPID ENTRY LOCK BOX REQUIRED.** The following structures shall be equipped with a key lock box at or near the front entrance or such location as required by the Fire Chief as described in Section 37.04:

1. All newly constructed commercial or industrial structures receiving a certificate of occupancy on or after July 1, 2007.
2. Any newly constructed apartment building or other rental building containing four (4) or more residential living units and in which access to the building or to common areas or mechanical or electrical rooms within the building is denied through locked doors, receiving a certificate of occupancy on or after July 1, 2007.
3. Any building or facility containing a quantity of hazardous materials which require compliance with Title III of SARA (Superfund Amendment Reauthorization Act).

**37.04 KEY BOX INSTALLATION REQUIREMENTS.** Buildings provided with an alarm system or a sprinkler system shall be provided with a key box at the front of the building, typically adjacent to the main front door(s) at a height of five feet above grade or at a location as directed by the Fire Code official.

**37.05 KEYS REQUIRED.** The owner or person in control of the buildings or facilities described in Section 37.03 is required to have a Rapid Entry Lock Box System and shall cause to have in such unit keys to the following areas:

1. The main entrance door.
2. Alarm room.
3. Mechanical rooms and sprinkler control rooms.
4. Fire alarm control panel.
5. Electrical rooms.

6. Special keys to reset pull stations or other protective devices.
7. Elevator keys, if required.
8. All other rooms as determined during plan review or walk through.

**37.06 ACCESS TO FIRE DEPARTMENT.** The owner or person in control of any building described in Section 37.03 required to have a Rapid Entry Lock Box System or an authorized agent of such person shall be present during access to such Rapid Entry Lock Box by the Fire Department except when the Fire Department has responded to an emergency at the property.

**37.07 UPDATE OF KEYS AND INFORMATION.** The owner or person in control of any building or facility described in Section 37.03 required to have a Rapid Entry Lock Box shall do the following:

1. Provide keys and updated sets of keys capable of access to the areas described in Section 37.05
2. Notify the Fire Department when a key change is made and coordinate to replace keys located in the Rapid Entry Lock Box.
3. Maintain current information of hazardous materials stored in the building or facility with the Fire Department.

**37.08 LIMITATION OF LIABILITY.** The City assumes no liability for any of the following:

1. Any defects in the operation of the Rapid Entry Lock Box, of any of the keys contained within said lock box, or any information stored within the lock box.
2. The failure or neglect to respond appropriately upon receipt of an alarm from an alarm system.
3. The failure or neglect of any owner or person in control of a building or facility to provide the correct or updated required material or keys.

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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  
40.06 Loafing, Loitering and Annoying Persons  
40.07 Loitering on Public Property  
40.08 Loitering Near Government Buildings

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

**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 which is reasonably related to that sport.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Ord. 2007-1700 – Dec. 07 Supp.)*

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

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

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

A. Make loud and raucous noise which 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 which 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 (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

*(Code of Iowa, Sec. 723.2)*

**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)*

**40.06 LOAFING, LOITERING AND ANNOYING PERSONS.** It is unlawful for any person or persons to:

1. Congregate, stand, loaf or loiter upon any street, sidewalk, bridge or crossing so as to obstruct the same, or hinder or prevent persons passing or attempting or desiring to pass thereon.

2. Congregate, stand, loaf or loiter in or in front of any hall, lobby, doorway, passage or entrance of any public building, theater, hotel, eating house, lodging house, office building, store, shop, office or factory or other like building so as to obstruct the

same, hinder or prevent persons walking along or into or out of the same or attempting or desiring to do so.

3. Sit upon or lean upon or against any railing or other barrier about any area, entrance, basement or window so as to obstruct the light or prevent passage of persons or tenants occupying the building to which such area, entrance, basement or window belongs.

4. Stand, loaf, loiter or remain in, or in the immediate vicinity of, or frequent a public transportation terminal, whether publicly or privately owned, unless there present with intent to use, or to accompany or meet a person using, the public transportation there offered or to use any accessory convenience facilities operated at such terminal for the use of travelers.

**40.07 LOITERING ON PUBLIC PROPERTY.** No persons shall collect, assemble or group together and after being so collected, assembled or grouped together, stand or loiter on any sidewalk, parking or any street corner, or at any other place in the City to the hindrance or obstruction to free passage of any person, persons or vehicles passing on or along any sidewalk or street in the City and each person participating in any such collection, assembly or group shall be guilty of violating this provision.

**40.08 LOITERING NEAR GOVERNMENT BUILDINGS.** No person shall congregate, stand, loaf or loiter in or in front of or around any school or other public building occupied in whole or in part by any governmental subdivision, including any agency, body, department, office, board or commission and the like thereof, so as to obstruct, hinder, prevent or disrupt the normal functions carried on therein or thereat, or so as to obstruct, hinder or prevent persons passing by or into or out of the same or attempting or desiring to do so. Provided, however, nothing contained herein is intended, and shall not be interpreted, to prohibit peaceful picketing, public speaking, the ordinary conduct of a legitimate business, or other lawful expressions of opinion not in contravention of other laws.

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## CHAPTER 41

### PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances  
41.02 False Reports to or Communications with Public  
Safety Entities  
41.03 Refusing to Assist Officer  
41.04 Harassment of Public Officers and Employees  
41.05 Abandoned or Unattended Refrigerators  
41.06 Antenna and Radio Wires

41.07 Barbed Wire and Electric Fences  
41.08 Discharging Weapons  
41.09 Throwing and Shooting  
41.10 Urinating and Defecating  
41.11 Fireworks  
41.12 Interference with Official Acts

**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 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)*

**41.04 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)*

**41.05 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)*

**41.06 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])*

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

**41.08 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, unless it is for the purpose of hunting within property zoned agricultural (A-1), except by written consent of the Council. *(Ord. 2010-100 – May 10 Supp.)*
2. No person shall intentionally discharge a firearm in a reckless manner.

**41.09 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])*

**41.10 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.

**41.11 FIREWORKS.**

1. Definition.
  - A. "Consumer Fireworks" means those fireworks as defined by Iowa Code Section 727.2 that may be sold within the City even though the use of those items is prohibited.
  - B. "First-class Consumer Fireworks" means the following Consumer Fireworks, as described in the American Pyrotechnics Association's Standard 87-1, Chapter 3:
    - (1) Serial shell kits and reloadable tubes.
    - (2) Chasers.
    - (3) Helicopter and aerial spinners.
    - (4) Firecrackers.
    - (5) Mine and shell devices.
    - (6) Missile type rockets.

- (7) Roman candles.
- (8) Skyrockets and bottle rockets.
- (9) Multiple tube devices under this paragraph (b) that are manufactured in accordance with APA 87-1, Section 3.5.

C. “Second-class Consumer Fireworks” means the following Consumer Fireworks, as described in APA 87-1, Chapter 3:

- (1) Cone fountains.
- (2) Cylindrical fountains.
- (3) Flitter sparklers.
- (4) Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, Section 3.5.
- (5) Ground spinners.
- (6) Illuminating torches.
- (7) Toy smoke devices that are not classified as novelties pursuant to APA 87-1, Section 3.2.
- (8) Wheels.
- (9) Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, Section 3.2.

D. “Display Fireworks” means those fireworks as defined by Iowa Code Section 727.2(1)(b).

E. “Novelties” includes all novelties enumerated in Chapter 3 of the American Pyrotechnics Association’s Standard 87-1, and that comply with the labeling regulations promulgated by the United States consumer product safety commission.

*(Code of Iowa, Sec. 727.2)*

## 2. Regulations.

A. Except between 9:00 a.m. – 10:00 p.m. on June 30, July 1, 2, 3, 5, 6 and 7 and except between 9:00 a.m. – 11:00 p.m. on July 4 where persons 18 years and older may use or explode, it shall be unlawful for any person to use or explode any explosive, explosive material, First-class Consumer Fireworks or Second-class Consumer Fireworks within the corporate limits of the City.

B. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any explosive, explosive material, First-class Consumer Fireworks or Second-class Consumer Fireworks within the corporate limits of the City unless granted a permit as provided in Section 192.13 of the Polk City Municipal Code. Sales of Display Fireworks may be made for that purpose only.

C. It shall be unlawful for any person to use or explode any Display Fireworks within the corporate limits of the City unless, upon application in writing, the City has issued a permit to a City agency, fair association, amusement park or other organizations or groups of individuals approved by

City authorities to display fireworks and such display will be handled by a competent operator.

*(Code of Iowa, Sec. 727.2)*

*(Subsections 1 and 2 – Ord. 2017-500 – Jan. 18 Supp.)*

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

*(Code of Iowa, Sec. 727.2)*

**41.12 INTERFERENCE WITH OFFICIAL ACTS.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, 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)*



## 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

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

*(Code of Iowa Sec. 716.7 and 716.8)*

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

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

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

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

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

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

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

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

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

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

**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)*

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## CHAPTER 43

# DRUG PARAPHERNALIA

### 43.01 Definitions

### 43.02 Determination as Paraphernalia - Factors

### 43.03 Drug Paraphernalia Prohibited

### 43.04 Manufacture or Delivery of Drug Paraphernalia

**43.01 DEFINITIONS.** Unless otherwise expressly stated or the context indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings in this section.

1. “Controlled substance” has the same meaning as contained in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
2. “Drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Chapter 124 of the Code of Iowa, commonly known as the Uniform Controlled Substances Act. It includes, but is not limited to:
  - A. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - B. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
  - C. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
  - D. Testing equipment used, intended for use, or designed for use in identifying, in analyzing the strength, effectiveness or purity of controlled substances except for such equipment of a peace officer or any person acting as an agent of or under the direction of any police agency.
  - E. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
  - F. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.
  - G. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
  - H. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

I. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

J. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

K. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

L. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, methamphetamine, hashish, or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) Water pipes, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, bongs, ice pipes or chillers;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

(5) Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;

(6) Miniature cocaine spoons and cocaine vials.

3. "Persons" means any individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

**43.02 DETERMINATION AS PARAPHERNALIA - FACTORS.** In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or Federal law relating to any controlled substance.

3. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

4. The proximity of the object to controlled substances.

5. The existence of any residue of controlled substances on the object.

6. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

7. Instructions, oral or written, provided with the object concerning its use.
8. Descriptive materials accompanying the object which explain or depict its use.
9. The manner in which the object is displayed for sale.
10. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
11. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
12. The existence and scope of legitimate uses for the object in the community.
13. Expert testimony concerning its use.

**43.03 DRUG PARAPHERNALIA PROHIBITED.** No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

**43.04 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA.** No person shall deliver, possess with intent to deliver, manufacture with intent to deliver drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

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## CHAPTER 44

# SPECIFIED CRIME PROPERTY

44.01 Definitions

44.02 Specified Crime Property

44.03 Penalties

44.04 Procedure For Enforcement

44.05 Notice

44.06 Service of Notice

44.07 Administrative Appeal

44.08 Conduct of Hearing

44.09 Effect of Notice

**44.01 DEFINITIONS.** The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Bootlegging” means the illegal sale or service of alcoholic liquor, wine or beer in violation of this chapter or Iowa Code Chapter 123.
2. “Controlled substance” means a drug, substance or immediate precursor as defined by Iowa Code Chapters 204A and 204B.
3. “Gambling” means games of skill or chance as defined by Iowa Code Chapter 99B and prohibited by Iowa Code Chapter 725.
4. “Owner” means any person, agent, firm, corporation, association or a partnership, including a mortgagee in possession, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and the right to present use and enjoyment of the premises.
5. “Person” means any natural person, association, partnership, corporation or other legal entity capable of owning or using property.
6. “Police Chief” means the person who has the responsibility to supervise and direct the Police Department, and for the purposes of this chapter may include his/her designee.
7. “Prostitution, pimping or pandering” means those acts or activities as defined by this Chapter or Iowa Code Chapter 725.
8. “Specified crime property” means any structure, including the real property upon which it is situated, in which activity involving the unauthorized delivery, possession or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping or pandering is occurring.
9. “Structure” means any building, building complex or structure, including but not limited to edifice, units or any portion thereof, and the real property upon which such building, building complex or structure is situated.

**44.02 SPECIFIED CRIME PROPERTY.** No person shall use or allow to be used any structure as specified crime property. When the structure and the property upon which it is situated are owned by different persons, each person shall not use or allow to be used such structure and property as specified crime property.

**44.03 PENALTIES.** Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a Municipal Infraction punishable by the Civil Penalty as provided by Chapter 3 of this Code of Ordinances.

**44.04 PROCEDURE FOR ENFORCEMENT.**

1. When the Police Chief has a reasonable belief that a structure is being used or maintained in violation of this chapter, the Police Chief shall notify the owner of record in writing that the structure has been declared to be a Specified Crime Property.

2. A reasonable belief that a structure is being used as a Specified Crime Property may be found from (but is not limited to) evidence of drug paraphernalia in or around the structure; an increase in vehicular or pedestrian traffic in or around the structure; observations of the exchange of money; verified citizen complaints of bootlegging; unauthorized delivery or manufacture of a controlled substance; illegal gambling, bootlegging, prostitution, pimping or pandering; and any other activity which leads a Police Officer to reasonably believe violations exist.

**44.05 NOTICE.** The notice required in Section 44.04(1) of this chapter shall notify the owner of record in writing that a structure owned by him/her has been declared to be a Specified Crime Property, and such notice shall contain the following information:

1. The street address and a description sufficient for identification of the premises on which the structure is located; and

2. A statement that the Police Chief has found the structure to be in violation of this chapter, with an explanation as to why the structure has been declared a Specified Crime Property.

**44.06 SERVICE OF NOTICE.**

1. A copy of the notice given pursuant to this chapter shall be served on the owner or an agent at least twenty (20) days prior to the commencement of any judicial action by the City. Service shall be made either personally or by mailing a copy of the notice by registered or certified mail, postage paid, return receipt requested, to each person at his/her address as it appears in the records of the County Auditor. In the event that notice is impossible to be served as set out above, a copy of the notice may be posted at the property, if ten (10) days have elapsed from the service or mailing of the notice to the owner and no response or reply has been received by the City from the owner during that period of time.

2. The failure of any owner to receive actual notice of the determination of the Police Chief shall not preclude future proceedings under this chapter.

**44.07 ADMINISTRATIVE APPEAL.**

1. Upon receipt of a notice of Specified Crime Property, as set out in Section 44.06, the owner of record may challenge such notice by filing a request for an administrative hearing. Such request for hearing shall be in writing and filed with the Clerk within ten (10) days of service of the notice of Specified Crime Property. A copy of this chapter is available, upon request, from City Hall for a copy fee.

2. Failure to request a hearing within such time period or to attend a scheduled hearing shall be deemed a waiver of the right to such a hearing.



**44.08 CONDUCT OF HEARING.**

1. The hearing held pursuant to this chapter shall be conducted before the Council within a reasonable period of time, but not to exceed fifteen (15) business days, excluding Saturdays, Sundays and City holidays, from the date of a written demand therefor. Such hearing may be continued for good cause. A notice of hearing, including the time, date and location of the hearing, shall be made by mailing a copy of the notice by first class mail, postage prepaid, to the owner of record.
2. The sole issue before the Council shall be whether there exists a reasonable belief that the structure was being used as Specified Crime Property when the declaration of Specified Crime Property was made pursuant to Section 44.01(8). The Council shall decide only that either (i) there is a reasonable belief that the structure was used as Specified Crime Property and that the provisions of this chapter shall apply, or (ii) there is not sufficient reasonable belief that the structure was being used as Specified Crime Property and that the procedures of this division shall be permanently stayed. A finding of no reasonable belief, however, shall not preclude a future independent complaint, investigation and notice of Specified Crime Property.
3. The decision of the Council shall be issued within four (4) days of the hearing and the owner of record shall be notified consistent with the notice provisions of this chapter.
4. The decision of the Council shall be final.

**44.09 EFFECT OF NOTICE.**

1. Subsequent to the declaration and notice that there exists a Specified Crime Property, an owner shall have the opportunity to abate the illegal activity within ten (10) days. If a landlord/tenant relationship, the owner/landlord may be deemed to have abated the activity upon demonstration that he/she has taken legal action as allowed by Iowa Code Chapter 562A, to terminate the rental agreement and continue in good faith to follow abatement procedures and provide the Police Chief with copies of all notices served in accordance with Iowa Code Chapter 562A.
2. If after twenty (20) days the Police Chief determines that a Specified Crime Property has not been abated, a notice of fine and an order of abatement shall be filed in compliance with Iowa Code Chapter 364.22 and Chapter 3 of this Code of Ordinances.

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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

**45.01 PERSONS UNDER LEGAL AGE.** As used in this section, “legal age” means twenty-one (21) years of age or more.

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

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

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

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

### **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 which provides teaching for any grade from kindergarten through grade twelve.

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

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

*(Code of Iowa, Sec. 123.46)*

**45.03 OPEN CONTAINERS IN MOTOR VEHICLES.** *(See Section 62.07 of this Code of Ordinances.)*

## CHAPTER 46

### MINORS

#### 46.01 Curfew

#### 46.02 Cigarettes and Tobacco

#### 46.03 Contributing to Delinquency

**46.01 CURFEW.** A curfew applicable to minors is established and may be enforced as follows:

1. Definition. For purposes of this section a “minor” is defined as any person below the age of 18 years.
2. Time Limits. It is unlawful for any minor to be, remain or loiter upon the alleys, streets or other public places of the City between the hours of eleven o’clock (11:00) p.m. and six o’clock (6:00) a.m. of the following day.
3. Exceptions. The restriction provided by subsection 2 of this section shall not apply to any minor who is accompanied by a parent or guardian, or other person having custody of such minor, or to any minor in the performance of duty directed by such parent, guardian or other person having custody, or if such minor has lawful employment making it necessary to be in such places after 11:00 p.m. Nor shall the restriction apply when a minor is on an emergency mission or to any minor who is traveling between his or her home or place of residence and the place where any approved church, municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be, remain or loiter upon any of the alleys, streets, or other public places within the curfew hours set by subsection 2 of this section, except as provided in subsection 3 of this section.
5. Penalties.
  - A. Any person who violates the provisions of subsection 4 of this section is guilty of a simple misdemeanor.
  - B. Any peace officer of the City while on duty is hereby authorized to arrest and detain any minor who willfully violates the provisions of subsection 2 of this section. The arresting officer shall immediately communicate with the parents, guardian or other person charged with the care and custody of the minor.
  - C. Any minor who violates the provisions of subsection 2 of this section is guilty of a simple misdemeanor.

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person’s employment and said person is employed

by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

## CHAPTER 47

# PARK REGULATIONS

47.01 Purpose	47.14 Compliance with Rules
47.02 Use of Roadways	47.15 Posting
47.03 Speed	47.16 Moving Fixtures
47.04 Parking	47.17 Alcoholic Beverages, Wine and Beer
47.05 Other Transportation	47.18 Responsibility of Adults
47.06 Hitching Animals	47.19 Sports Complex
47.07 Public Property	47.20 Camping
47.08 Fires	47.21 Application Required
47.09 Litter	47.22 Miscellaneous Organizations
47.10 Language	47.23 Regularly Scheduled Activities
47.11 Dogs at Large	47.24 Designated Activity Area
47.12 Hours	47.25 Tobacco Free Policy
47.13 Safety	

**47.01 PURPOSE.** The rules and regulations in this chapter are established concerning the conduct and use of parks, and regulating traffic and parking of automobiles and other vehicles in any such park. "City or public park" means and includes the Sports Complex and any other area which is under the control and/or contract with the City and intended for recreational purposes.

**47.02 USE OF ROADWAYS.** No person shall ride or drive any automobile or other vehicle in any City or public park except upon the established roads and ways. No automobiles or other vehicles shall be permitted to stand in any of the public driveways in any such park where signs to the contrary are posted, nor shall any automobile or other vehicle be driven contrary to one-way signs. No City or public park road shall be used as a through street by any vehicle where posted.

**47.03 SPEED.** No person shall ride or drive any automobile or other vehicle in a City or public park at a speed in excess of twenty-five (25) miles per hour or fifteen (15) miles per hour through play areas where so posted.

**47.04 PARKING.** No automobile or other vehicle shall be allowed to park in any City or public park except in places where designated by the Park Commission and no person shall park any automobile or other vehicle at night except where the same is lighted as required by law for other City streets. No such vehicle shall be parked or allowed to remain within or upon any such park area or facility for a period in excess of twenty-four (24) hours.

**47.05 OTHER TRANSPORTATION.** No horses, motorcycles, snowmobiles or other motorized vehicles are allowed off the roadway unless in specified areas.

**47.06 HITCHING ANIMALS.** No person shall hitch or ride a horse or other animal in any City or public park except in places where trails are posted and rails are provided.

**47.07 PUBLIC PROPERTY.** No person shall in any manner deface, injure or remove any tree, shrub or plant standing or growing in a City or public park or pick or destroy flowers or seeds growing therein. No person shall cut or remove any wood, turf, grass, soil, rock, sand or gravel from any City or public park without permission of the Park Commission. No metal detectors shall be allowed in any City or public park.

**47.08 FIRES.** No fires shall be lighted or made in any City or public park except with the permission of the Park Commission; provided, however, this section does not apply to fires in stoves and ovens provided in the park for the use in picnic cooking.

**47.09 LITTER.** No person shall deposit upon or litter the ground with any form of waste material. All such waste material shall be deposited in receptacles provided for such purpose.

**47.10 LANGUAGE.** No person shall use any loud, violent, obscene or profane language while in any City or public park, nor shall any person behave in a disorderly or obscene manner or commit any nuisance therein.

**47.11 DOGS AT LARGE.** No dog shall be permitted to run at large in any City or public park.

**47.12 HOURS.** No person shall be in any City or public park between the hours of 10:30 p.m. to 6:30 a.m. or at any time duly designated and posted by the Park Commission.

**47.13 SAFETY.** No person shall throw any stone, dirt, stick, or other missile or obstruction into the swimming pool, wading pool or upon the ice in any park. No person shall engage in tandem skating, games, racing or other activities on the ice except as allowed by the Park Commission.

**47.14 COMPLIANCE WITH RULES.** All persons shall abide by rules as posted in park areas and facilities.

**47.15 POSTING.** No person shall post, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, stone, directional sign, fence or enclosure along or within any City or public park except with permission of the Park Commission.

**47.16 MOVING FIXTURES.** No person shall move benches, seats, or tables from their places in any City or public park except on picnic grounds and within designated areas.

**47.17 ALCOHOLIC BEVERAGES, WINE AND BEER.** No person shall possess, use or consume alcoholic liquors, wine or beer in a City or public park and no person shall be intoxicated in a City or public park.

**47.18 RESPONSIBILITY OF ADULTS.** No parent, guardian or custodian of a minor child shall permit or allow such minor to do any act prohibited by the provisions of the rules set up by the Park Commission and the parent, guardian or custodian shall be responsible for such act.

**47.19 SPORTS COMPLEX.** The following rules and regulations are established governing the use of the Sports Complex:

1. **Permission Required.** No person shall use the Sports Complex for any tournament or special activity unless such activity is first approved by the Park Commission. Any group or organization wishing approval for the use of the Sports Complex shall request such permission from the City Clerk, who shall thereupon forward such request to the Park Commission. If such request is granted, the applicant shall immediately deposit with the Clerk the appropriate rental fee and the additional sum of \$50.00 as a maintenance deposit. The maintenance deposit shall be returned to the applicant only after the Public Works Director has verified that no



damage has resulted from the use of said Sports Complex by said group or organization. If the applicant wishes the use of lights, an additional charge of \$15.00 per hour shall be imposed with a minimum charge of \$15.00 payable at the time of the issuance of the permit, as is hereinafter provided. Notification of cancellation of any tournaments, special activity, or organizational functions must be made a minimum of five (5) days prior to the scheduled event, or the rental fee will not be refunded.

2. Preference Given to Polk City Groups. In the scheduling of any event at the Sports Complex, Polk City organizations shall be given preference by the Park Commission over all other groups or organizations. Any outside tournament, special activity or organizational function may be preempted by twenty (20) days' notice by a request for use from a Polk City organization.

3. Rental Fees. Rental fees for the use of the Sports Complex, if applicable, shall be charged in accordance with the following schedule:

- A. Little League baseball field - \$100.00 per game;
- B. Girls' softball field - \$100.00 per game;
- C. Adult softball field - \$100.00 per game;
- D. Unlighted soccer field - \$100.00 per game;
- E. Lighted soccer field - \$150.00 per game;

A rental fee shall not be charged for the use of the Sports Complex when fifty percent (50%) or more of the participants in the tournament or special activity are residents of the City.

4. Permit Issuance. Upon payment of the rental fee and deposit, the Clerk shall issue a permit to the applicant. Any nonresident group or organization claiming to have permission to use the Sports Complex shall have such permit in their collective possession at all times while within the Sports Complex and shall produce the same upon demand to any police officer of the City.

5. Observation of Rules; Responsibility. Any group or organization using the Sports Complex shall be responsible for any damage done by any member of such group. Any group or organization using said Sports Complex shall observe all other ordinances and regulations governing the use of parks within the City.

6. Use of Rental Fees. All funds derived from the collection of the aforementioned users' fees shall become part of the Parks and Recreation Fund and be used for the maintenance and improvement of the parks system within the City.

7. Weather Clause. The Public Works Director shall determine if fields are not usable due to weather related conditions. In this event, the activity can be rescheduled. No refunds will be given to weather related causes.

8. Concession Rights. Only Polk City nonprofit organizations will have concession rights in the complex.

**47.20 CAMPING.** No person shall camp in any portion of a City park or on any other public area within the City, except in areas prescribed or designated by the Park Commission and approved by the Council to be used for such purpose.

**47.21 APPLICATION REQUIRED.** Any person seeking permission to use the public parks for any regularly scheduled athletic activity or other type of activity shall first submit its application to the Park Commission. Such application shall state the name, address and phone number of the person in charge of such organization; the names of all members of the Board of Directors or other governing body of such organization; and further, that said organization and its members agree to indemnify the City for any damages caused by the activities of said organization. No organization shall be recognized as a bona fide organization by the Commission until it has been furnished with the information required in this section.

**47.22 MISCELLANEOUS ORGANIZATIONS.** Public meetings, religious, political, or otherwise, including picnic parties and entertainment for charitable or religious purposes, may be held in any public park after first obtaining permission from the Park Commission and only after such group furnishes the information required under Section 47.21. Such assemblages shall be conducted in a lawful and orderly manner, and shall occupy such grounds as may be reserved for them.

**47.23 REGULARLY SCHEDULED ACTIVITIES.** Any person in any activity at such time and place which serves to conflict with any scheduled activity may be requested to leave and upon failing to do so, shall be guilty of a misdemeanor.

**47.24 DESIGNATED ACTIVITY AREA.** The Park Commission shall designate areas in which soccer, baseball, and softball may be played. No person shall engage in either soccer, baseball or softball in any area in any public park which is not designated for such activity.

**47.25 TOBACCO FREE POLICY.**

1. **TOBACCO USE PROHIBITED.** Tobacco and nicotine use is prohibited in all City of Polk City outdoor recreational facilities at all times. No person shall use any form of tobacco at or on any City-owned or operated outdoor recreational facility, which includes, but is not limited to, any park, playground, athletic field and complex, skate park, aquatic areas, shelter, restrooms, trails and parking lot areas. The term "tobacco" means any product made or derived from tobacco, such as nicotine, that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, among other products, cigarettes, electronic smoking devices, cigarette tobacco, roll-your-own tobacco, smokeless, and dissolvable tobacco. The term "electronic smoking device" means any device that can be used to deliver an aerosolized solution that may or may not contain nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, e-hookah or other simulated smoking device. Tobacco product does not include nicotine products approved by the U.S. Food and Drug Administration (FDA) for tobacco cessation. Tobacco-Free signs shall be posted in all outdoor recreational facilities that conform to the requirement of Section 142D.6 of the Code of Iowa.

2. **ENFORCEMENT.** Any person found violating this Ordinance will be asked to cease use of tobacco or leave the City Park or facility premises. Any person found to continually violate this Ordinance may be cited with a municipal infraction. Violations of this Chapter are declared to be municipal infractions and may be punished as provided in Chapter 3 of this Code. For violations of Subsection 47.25 of this Ordinance, police officers or designees shall enforce and be authorized to issue citation-complaints. Before issuing a citation-complaint, the police officer or designee shall verify that the offender has previously received a warning against engaging in such conduct, or the offender has refused to discontinue engaging in such conduct

after the police officer or designee has advised the offender that such conduct must cease. A one hundred dollar (\$100.00) civil penalty shall be imposed for each violation where a citation-complaint has been issued.

*(Ord. 2016-1400 – Jan. 17 Supp.)*



**CHAPTER 48**  
**RESIDENCY RESTRICTIONS FOR SEX OFFENDERS**

*(Repealed by Ord. 2009-900 – Dec. 09 Supp.)*

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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 Notice to Abate: Contents  
50.07 Method of Service

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

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

*(Code of Iowa, Sec. 657.1)*

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

*(Code of Iowa, Sec. 657.2)*

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.08)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

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

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

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

13. Emerald Ash Borer. Ash trees infested by Emerald Ash Borer. The Public Works Director shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the City shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of disease or the insect or disease pests.

If it is determined with reasonable certainty that any such condition exists on private property and that the danger of other trees within the City is imminent, the City shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within sixty (60) days of said notification. If such owner, occupant or person in charge of said property fails to comply within sixty (60) days of receipt of notice, the City may cause the nuisance to be removed and the cost assessed against the property.

*(Ord. 2012-500 – Mar. 13 Supp.)*

**50.03 OTHER CONDITIONS.** The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions which 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)**

**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 the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. †  
*(Code of Iowa, Sec. 364.12[3h])*

**50.06 NOTICE TO ABATE: CONTENTS.** The notice to abate shall contain:  
*(Code of Iowa, Sec. 364.12[3h])*

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

**50.07 METHOD OF SERVICE.** The notice may be in the form of an ordinance or sent by certified mail to the property owner.  
*(Code of Iowa, Sec. 364.12[3h])*

**50.08 REQUEST FOR HEARING.** Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

**50.09 ABATEMENT IN EMERGENCY.** If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.  
*(Code of Iowa, Sec. 364.12[3h])*

**50.10 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,

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† **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.

keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk who shall pay such expenses on behalf of the City.

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

**50.11 COLLECTION OF COSTS.** The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

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

*(Code of Iowa, Sec. 364.13)*

**50.13 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 or applicable Federal, State or County laws.

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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 which has any of the following characteristics:
  - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
  - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.
  - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
  - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
  - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power.
  - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

3. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, except devices moved by human power. This includes without limitation a motor vehicle, automobile, truck, motorcycle, snowmobile, ATV, any type of recreational vehicle, 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 excluded 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:

1. A fully enclosed fence or wall in the rear yard of a parcel within an industrial zoning district constructed of wood or opaque materials meeting applicable City ordinances at least eight feet in height, constructed so as to prevent unauthorized entrance and access to the junk or junk vehicle;
2. Structure. A garage or other enclosed structure; or
3. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City having an approved Site Plan designated for such use.

*(Ord. 2010-1100 – May 10 Supp.)*

**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 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 52

# NOISE CONTROL

52.01 Central Policy  
52.02 Purpose and Scope  
52.03 Definitions  
52.04 Noise Disturbance Prohibited

52.05 Included Sounds  
52.06 Excluded Sounds  
52.07 Construction

**52.01 CENTRAL POLICY.** It is the declared policy of the City to promote an environment free from excessive noise, otherwise properly called “noise pollution,” which unnecessarily jeopardizes the health and welfare and degrades the quality of the lives and devalues the property of the residents of the City, without unduly prohibiting, limiting or otherwise regulating the function of certain noise-producing equipment which is not amenable to the economy of, and quality of life in, the City.

**52.02 PURPOSE AND SCOPE.** The purpose of this chapter is to establish standards for the control of noise pollution in the City and thereby to protect the public health, safety and general welfare. This chapter shall apply to the control of all noise originating within the limits of the City, except where either:

1. A State or Federal agency has adopted a different standard or rule than that prescribed within this chapter and has so preempted the regulation of noise from a particular source as to render this chapter inapplicable thereto.
2. The Council has determined that, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the City.

**52.03 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI).

1. “Emergency” means any occurrence or set of circumstances involving actual or intimate physical or psychological trauma or property damage which demands immediate action.
2. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
3. “Motorcycle” means any two-wheeled or three-wheeled motor vehicle.
4. “Motor vehicle” means any motor-powered vehicle designed to carry at least one (1) passenger or driver and of the type typically licensed for use on the public highways. (NOTE: “Motor vehicle” includes most “motorcycles.”)
5. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
6. “Noise disturbance” means those sounds defined as “noise disturbances” in Section 52.05 of this chapter.

7. “Powered model vehicles” means any self-propelled airborne, waterborne, or land-borne model plane, vessel, or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.
8. “Public right-of-way” means the traveled portion of any street, avenue, boulevard, highway, alley, or similar place which is owned or controlled by the City or another governmental entity.
9. “Real property boundary” means an imaginary line along the ground surface and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, but not including intra-building real property divisions.
10. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one (1) passenger or driver and equipped for use in racing or other recreational events or used off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways shall be deemed a “motor vehicle” (and a “motorcycle” if two-wheeled or three-wheeled) and not a “recreational vehicle.” (An example of a recreational vehicle is a snowmobile, a minibike, a stock car, or motorboat.)
11. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
12. “Sound” means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
13. “Sound equipment” means any radio, record player, tape deck or player, loud speaker, amplifier, sound track, or other device for producing, reproducing, or amplifying sound, except, however, “sound equipment” does not include:
- A. Sirens and other equipment used to alert persons to the existence of an emergency.
  - B. Equipment used by law enforcement and other public safety officials in the performance of their duties.
  - C. Church carillons, bells, or chimes.
  - D. Mobile radio or telephone signaling devices.
  - E. Automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than fifty (50) feet from such automobile or truck.

**52.04 NOISE DISTURBANCE PROHIBITED.** It is unlawful for any person to willfully make or continue, or cause or allow to be made or continued, any noise disturbance within the City.

**52.05 INCLUDED SOUNDS.** Except for sounds excluded in Section 52.06, the term “noise disturbance,” as used in this chapter, means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety, or health of a human being, or disturbs a reasonable human

being of normal sensitivities, or causes or tends to cause adverse physiological or physical effects on human beings or devalues or injures property.

2. Selling by “Hawking” or “Barking”. The sound of selling by shout or outcry when made within the area of the City zoned residential or commercial.
3. Loading and Unloading. The sound made by the out-of-doors loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 10:00 p.m. and 6:00 a.m. of the following morning within any area of the City zoned residential.
4. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing of a motor vehicle or recreational vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.
5. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.
6. Musical Instruments. The sound made by a drum, horn, reed instrument, string instrument, or other musical instrument or device which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.
7. Off-Road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property other than public right-of-way by a motorcycle or recreational vehicle and received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property; provided, however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a “noise disturbance” unless made so by some provision of this section other than this subsection.
8. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.
9. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City between the hours of 10:00 p.m. and 10:00 a.m. of the following morning.
10. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle in areas of the City zoned residential or commercial.
11. Noisy Exhaust System. The sound made by a motor vehicle or recreational vehicle whose exhaust system has been modified by the installation of a muffler cutout or bypass.
12. Animal or Bird Noises. The frequent or habitual sound made by a domesticated animal or bird, other than livestock owned or possessed for agricultural purposes.

*(Ord. 2012-200 – Mar. 13 Supp.)*

**52.06 EXCLUDED SOUNDS.** Any other provision of this chapter to the contrary notwithstanding, the term “noise disturbance,” as used in this chapter, does not mean or include the following sounds:

1. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of 7:00 a.m. and 10:00 p.m.
2. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of 8:00 a.m. and 8:00 p.m.
3. Snow Removal Equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment operated between the hours of 6:00 a.m. and 10:00 p.m. and the sound emitted by City-owned or hired snow removal equipment.
4. Emergencies. The sound emitted in the performance of emergency work, or to alert persons to the existence of an emergency.
5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device for emergency purposes, or for the essential testing of such device when conducted between the hours of 9:00 a.m. and 4:00 p.m.
6. Church Bells. The sound emitted by church carillons, bells, or chimes.
7. Automobiles Radios. The sound emitted by an automobile or truck radio, tape deck or player, or other such standard equipment used and intended for the use and enjoyment of such vehicle’s occupants while such vehicle is on the public right-of-way, provided that the sound emitted therein is not audible for more than fifty (50) feet.
8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.
9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.
10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.
11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of 7:00 a.m. and 10:00 p.m. which is being performed pursuant to a proper and current building permit.
12. Mosquito Spraying Equipment. The sound made by City-owned or hired mosquito spraying equipment.

**52.07 CONSTRUCTION.** No provisions of this chapter should be construed to legalize or permit sounds, devices, or activities made unlawful by other ordinances of the City or State or Federal statutes.

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.12 Number of Animals Restricted
55.02 Animal Neglect	55.13 Trapping
55.03 Livestock Neglect	55.14 Cats Disturbing the Peace
55.04 Abandonment of Cats and Dogs	55.15 At Large: Impoundment
55.05 Livestock	55.16 Disposition of Animals
55.06 At Large Prohibited	55.17 Impounding Costs
55.07 Damage or Interference	55.18 Sanitation
55.08 Annoyance or Disturbance	55.19 Pet Awards Prohibited
55.09 Rabies Vaccination	55.20 Prohibition on Feeding of Whitetail Deer
55.10 Owner's Duty	55.21 Bees and Beekeeping
55.11 Confinement	

**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, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.  
*(Code of Iowa, Sec. 717.1)*
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. "Pet" means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

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

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

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

*(Code of Iowa, Sec. 717.2)*

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

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

**55.05 LIVESTOCK.** It is unlawful for a person to keep livestock within the City except by written consent of the Council.

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

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

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

**55.09 RABIES VACCINATION.** Every owner of a cat or dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a cat or dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in kennels and not allowed to run at large are not subject to these vaccination requirements.

*(Code of Iowa, Sec. 351.33)*

**55.10 OWNER'S DUTY.** It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and

veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

*(Code of Iowa, Sec. 351.38)*

**55.11 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 ten (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)*

**55.12 NUMBER OF ANIMALS RESTRICTED.** Not more than four (4) dogs or cats or combinations thereof over the age of six (6) months shall be kept by any person on any premises in the City except in bona fide kennels or pet shops.

**55.13 TRAPPING.** No person shall, within the corporate boundaries of the City, set or use a steel, claw, or a box trap, or any other device or mechanism outside of any structure or building for the purpose of taking, killing, maiming, wounding, ensnaring, trapping, or capturing an animal, or which is, or could be, injurious to persons or animals unless such person has applied for and obtained from the Police Chief a permit to do so. The Police Chief shall make available a form for applying for such a permit and shall issue such permits only when, in the discretion of the Police Chief, the issuance of such permit will not interfere with or endanger the health, safety, or welfare of persons or property. The Chief shall place such conditions or restrictions on any permit as are necessary, in the exercise of such discretion, and to prevent the unreasonable risk or danger to persons or property. This section shall not be construed to prohibit trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of persons or property.

**55.14 CATS DISTURBING THE PEACE.** No owner shall permit a cat to cause annoyance or disturbance to any person or persons in any manner including frequent and habitual hissing, meowing or fighting; defecation on property other than that of the owner; and the defacing or scratching or marring of any personal property other than that of the owner of said animal.

**55.15 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.

**55.16 DISPOSITION OF ANIMALS.**

1. Notification to Owner. Following seizure of any properly licensed cat or dog with identification tags attached, the owner shall be notified of such seizure by telephone or by letter mailed to the owner's address as disclosed on the tags. Such notice, if by mail, shall advise the owner to immediately contact the City Clerk's office or the Police Department for information on how the cat or dog may be reclaimed.

2. Animal Held for 24 Hours. After seizure of a cat or dog, the animal will be kept at City facilities for a maximum of 24 hours. If seized on a Friday, the animal

will be kept no later than 2:00 p.m. If the owner has not taken all steps necessary to reclaim the cat or dog within such time, the animal will be transported to the designated impoundment facility. Provided, however, any cat or dog seized which is not wearing a current license issued by the City will be immediately transported to the designated impoundment facility and will not be held by the City for any length of time.

3. **Temporary Release From Impoundment.** The owner of an unlicensed cat or dog which has been impounded may obtain a temporary release of the cat or dog for the purpose of obtaining the necessary rabies vaccination, by payment of all impoundment fees incurred to the date of such temporary release, and by further depositing with the Clerk the sum of fifty dollars (\$50.00) to insure that the cat or dog will be licensed within ninety-six (96) hours from the date of its release. If the owner produces a valid vaccination certificate and obtains the license within ninety-six (96) hours of such temporary release, the deposit shall be refunded to the owner. If the license is not obtained within ninety-six (96) hours after such release, the deposit shall be forfeited and shall be turned over by the Clerk to the General Fund, in which event, the cat or dog shall be subject to re-impoundment and additional impoundment costs based on the schedule outlined in Section 55.17 (1) (A).

4. **Unclaimed Animals.** Any seized cat or dog or other animal not reclaimed within seven (7) days after its seizure, or after notice to the owner of the seizure if the owner is known, shall be destroyed or otherwise disposed of.

**55.17 IMPOUNDING COSTS.** In addition to any other requirements, the owner of a seized cat or dog shall be charged a fee, and may reclaim such cat or dog only upon payment of such fee, in the following amount:

1. If the cat or dog does not have a current license: \$45 penalty
2. Administration fee for the seizure: \$50
3. Seizure:
  - A. \$50 if it is the first seizure during the calendar year;
  - B. \$75 if it is the second seizure during the calendar year;
  - C. \$100 if it is the third seizure during the calendar year; or
  - D. \$125 for each subsequent seizure during the calendar year.

*(Ord. 2017-800 – Jan. 18 Supp.)*

**55.18 SANITATION.** It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

**55.19 PET AWARDS PROHIBITED.***(Code of Iowa, Ch. 717.E)*

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

**55.20 PROHIBITION ON FEEDING OF WHITETAIL DEER.**

1. Prohibition. No person shall engage in the artificial feeding of whitetail deer within the City of Polk City, except as set forth in Section 55.20 (2). "Artificial feeding" shall be defined as the placement of shelled corn and/or other types of grain, salt or minerals, fruit or vegetable matter on the ground or in feeders, mangers or any other type of structure or receptacle for the purpose of feeding or attracting whitetail deer, on any private or public property.
2. Exceptions. The prohibition in Section 55.20 (1) shall not apply to:
  - A. Deer management practices approved, authorized and sponsored by the City.
  - B. Use of bird feeders or their equivalent for the primary purpose of feeding of birds.
  - C. Cultivation of naturally growing grains, fruits or vegetables, for purposes other than the feeding of whitetail deer, but which inadvertently attract whitetail deer.
3. Penalties. The penalty for violation of this section shall be not less than \$250.00 nor more than \$500.00 for the first day of violation and not less than \$10.00 nor more than \$25.00 for each subsequent date of violation.

*(Ord. 2010-2300 – Apr. 11 Supp.)*

**55.21 BEES AND BEEKEEPING.** It is unlawful for a person to keep bees within the City except in an Agricultural (A-1) Zoning District in compliance with Section 165.08(2).

*(Ord. 2016-1600 – Jan. 17 Supp.)*

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## CHAPTER 56

# CAT AND DOG LICENSES

56.01 Annual License Required  
56.02 Immunization Certificate  
56.03 Issuance of Licenses

56.04 Tags  
56.05 Annual Dog Park Pass

**56.01 ANNUAL LICENSE REQUIRED.** Every owner of a cat or dog six (6) months old or older shall procure a license for such cat or dog from the Clerk's office on or before January 1 each year and shall pay to the Clerk a fee of \$10.00 for each animal. Fees paid on or after April 1 each year shall be \$25.00 for each license. An additional \$1.00 charge shall be assessed for all licenses issued by mail. *(Ord. 2017-800 – Jan. 18 Supp.)*

**56.02 IMMUNIZATION CERTIFICATE.** No such license shall be issued until the owner shall procure for examination a certificate of a veterinarian licensed to practice in the State of Iowa that the cat or dog has been vaccinated against rabies and that the vaccination does not expire within six (6) months from the effective date of the license.

**56.03 ISSUANCE OF LICENSE.** Upon payment of the license fee and production of the certificate, the Clerk's office shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the cat or dog. Said license shall be executed in duplicate, one copy of which shall be retained by the Clerk's office as a public record.

**56.04 TAGS.** The Clerk shall also issue and deliver to said owner a metal tag stamped with the number of the license and the year for which it is issued. The tag shall be worn at all times by the cat or dog for which the license is issued. Every cat or dog found off the property of its owner without said license tag attached to its collar or harness shall be deemed to be unlicensed.

**56.05 ANNUAL DOG PARK PASS.** All dogs are required to have a Dog Park Pass to use the Dog Park. The permit tag must be worn on the collar while at the Dog Park. Dogs must have a current pet license, a current rabies vaccination certificate and a signed release of liability to obtain a Dog Park Pass. Annual Dog Park Passes cost \$25 for each dog and are valid from January 1 through December 31. *(Ord. 2017-800 – Jan. 18 Supp.)*

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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 (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (b) any animal declared to be dangerous by the County Board of Health or Council; and (c) the following animals, which are deemed to be dangerous animals per se:

- A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- B. Wolves, coyotes and foxes;
- C. Badgers, wolverines, weasels, skunk and mink;
- D. Raccoons;
- E. Bears;
- F. Monkeys and chimpanzees;
- G. Bats;
- H. Alligators and crocodiles;
- I. Scorpions;
- J. Snakes that are venomous, or constrictors;
- K. Gila monsters;

2. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has attacked, bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten more than one person during the animal’s lifetime; or (b) has bitten one person on two or more occasions during the animal’s lifetime; or (c) 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 other purpose or in any other capacity within the City except in the following circumstances:

- 1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
- 2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

**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 permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice which 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 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 on the 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 (3) days after receipt of the order contained in the notice. 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 (7) 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 (3) 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, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals 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 (3) days or the order of the Council after appeal is not complied with within three (3) 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 Traffic Accidents: Reports

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 "Polk City 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 all areas zoned C1 or C2, as shown on the City's official zoning map.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

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

**60.03 ADMINISTRATION AND ENFORCEMENT.** Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Police Chief.  
(Code of Iowa, Sec. 372.13 [4])

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

**60.07 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. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall make an initial request to the Police Chief and shall provide information concerning the time and date for the parade and the streets or general route therefor. The Police Chief shall then take the request to the Council for final approval, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

3. Parade Not A Street Obstruction. Any parade for which approval has been given 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 Peace Officers and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

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

*(Code of Iowa, Sec. 321.256)*

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## 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 Tampering with Vehicle

62.07 Open Containers in Motor Vehicles  
62.08 Obstructing View at Intersections  
62.09 Reckless Driving  
62.10 Careless Driving  
62.11 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.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
8. Section 321.99 – Fraudulent use of registration.
9. Section 321.174 – Operators licensed.
10. Section 321.174A – Operation of motor vehicles with expired license.
11. Section 321.180 – Instruction permits.
12. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
13. Section 321.193 – Restricted licenses.
14. Section 321.194 – Special minor’s licenses.
15. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
16. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
17. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 – Permitting unauthorized minor to drive.
19. Section 321.220 – Permitting unauthorized person to drive.
20. Section 321.221 – Employing unlicensed chauffeur.

21. Section 321.222 – Renting motor vehicle to another.
22. Section 321.223 – License inspected.
23. Section 321.224 – Record kept.
24. Section 321.232 – Radar jamming devices; penalty.
25. Section 321.234A – All-terrain vehicles.
26. Section 321.235A – Electric personal assistive mobility devices.
27. Section 321.247 – Golf cart operation on City streets.
28. Section 321.257 – Official traffic control signal.
29. Section 321.259 – Unauthorized signs, signals or markings.
30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
31. Section 321.262 – Damage to vehicle.
32. Section 321.263 – Information and aid.
33. Section 321.264 – Striking unattended vehicle.
34. Section 321.265 – Striking fixtures upon a highway.
35. Section 321.275 – Operation of motorcycles and motorized bicycles.
36. Section 321.278 – Drag racing prohibited.
37. Section 321.288 – Control of vehicle; reduced speed.
38. Section 321.295 – Limitation on bridge or elevated structures.
39. Section 321.297 – Driving on right-hand side of roadways; exceptions.
40. Section 321.298 – Meeting and turning to right.
41. Section 321.299 – Overtaking a vehicle.
42. Section 321.302 – Overtaking and passing.
43. Section 321.303 – Limitations on overtaking on the left.
44. Section 321.304 – Prohibited passing.
45. Section 321.306 – Roadways laned for traffic.
46. Section 321.307 – Following too closely.
47. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
48. Section 321.309 – Towing; convoys; drawbars.
49. Section 321.310 – Towing four-wheel trailers.
50. Section 321.312 – Turning on curve or crest of grade.
51. Section 321.313 – Starting parked vehicle.
52. Section 321.314 – When signal required.
53. Section 321.315 – Signal continuous.
54. Section 321.316 – Stopping.

55. Section 321.317 – Signals by hand and arm or signal device.
56. Section 321.319 – Entering intersections from different highways.
57. Section 321.320 – Left turns; yielding.
58. Section 321.321 – Entering through highways.
59. Section 321.322 – Vehicles entering stop or yield intersection.
60. Section 321.323 – Moving vehicle backward on highway.
61. Section 321.323A – Approaching certain stationary vehicles.
62. Section 321.324 – Operation on approach of emergency vehicles.
63. Section 321.324A – Funeral processions.
64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
65. Section 321.330 – Use of crosswalks.
66. Section 321.332 – White canes restricted to blind persons.
67. Section 321.333 – Duty of drivers.
68. Section 321.340 – Driving through safety zone.
69. Section 321.341 – Obedience to signal of train.
70. Section 321.342 – Stop at certain railroad crossings; posting warning.
71. Section 321.343 – Certain vehicles must stop.
72. Section 321.344 – Heavy equipment at crossing.
73. Section 321.344B – Immediate safety threat; penalty.
74. Section 321.354 – Stopping on traveled way.
75. Section 321.359 – Moving other vehicle.
76. Section 321.362 – Unattended motor vehicle.
77. Section 321.363 – Obstruction to driver’s view.
78. Section 321.364 – Preventing contamination of food by hazardous material.
79. Section 321.365 – Coasting prohibited.
80. Section 321.367 – Following fire apparatus.
81. Section 321.368 – Crossing fire hose.
82. Section 321.369 – Putting debris on highway.
83. Section 321.370 – Removing injurious material.
84. Section 321.371 – Clearing up wrecks.
85. Section 321.372 – School buses.
86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
87. Section 321.381A – Operation of low-speed vehicles.
88. Section 321.382 – Upgrade pulls; minimum speed.

89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
111. Section 321.417 – Single-beam road-lighting equipment.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
116. Section 321.422 – Red light in front.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.

124. Section 321.437 – Mirrors.
125. Section 321.438 – Windshields and windows.
126. Section 321.439 – Windshield wipers.
127. Section 321.440 – Restrictions as to tire equipment.
128. Section 321.441 – Metal tires prohibited.
129. Section 321.442 – Projections on wheels.
130. Section 321.444 – Safety glass.
131. Section 321.445 – Safety belts and safety harnesses; use required.
132. Section 321.446 – Child restraint devices.
133. Section 321.449 – Motor carrier safety regulations.
134. Section 321.450 – Hazardous materials transportation.
135. Section 321.454 – Width of vehicles.
136. Section 321.455 – Projecting loads on passenger vehicles.
137. Section 321.456 – Height of vehicles; permits.
138. Section 321.457 – Maximum length.
139. Section 321.458 – Loading beyond front.
140. Section 321.460 – Spilling loads on highways.
141. Section 321.461 – Trailers and towed vehicles.
142. Section 321.462 – Drawbars and safety chains.
143. Section 321.463 – Maximum gross weight.
144. Section 321.465 – Weighing vehicles and removal of excess.
145. Section 321.466 – Increased loading capacity; reregistration.

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

**62.07 OPEN CONTAINERS IN MOTOR VEHICLES.**

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

*(Code of Iowa, Sec. 321.284)*

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

*(Code of Iowa, Sec. 321.284A)*

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

**62.08 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.

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

*(Code of Iowa, Sec. 321.277)*

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

*(Code of Iowa, Sec. 321.277A)*

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

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

4. Causing the vehicle to unnecessarily turn abruptly or sway.

**62.11 ENGINE BRAKES AND COMPRESSION BRAKES.**

1. It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City any engine brake, compression brake or mechanical



exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle. Violations of this section will be considered a non-moving violation.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

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## CHAPTER 63

# SPEED REGULATIONS

### 63.01 General

### 63.02 State Code Speed Limits

### 63.03 Cemeteries and Parking Lots

### 63.04 Special Speed Restrictions

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

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

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

**63.04 SPECIAL SPEED RESTRICTIONS.** 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 10 MPH Speed Zones. A speed in excess of ten (10) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On Sunset Street from a point on the east line of Lot 3, Forest Heights, Plat No. 3, to West Side Drive.
2. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.
  - A. On West Jester Park Drive from West Broadway to the west City limit;

- B. On North Third Street from Broadway to a point 1,350 feet north of Broadway;
  - C. On Third Street from Broadway to a point 728 feet south of Broadway;
  - D. On Broadway from Third Street to a point 250 feet northwest of Fifth Street;
  - E. In the school zone from 1315 to 1620 West Broadway, when lights are flashing.
3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On North Third Street from 1,350 feet north of Broadway to a point 3,810 feet north of Broadway;
  - B. On Third Street from 728 feet south of Broadway to a point 2,008 feet south of Broadway;
  - C. On Broadway from 250 feet northwest of Fifth Street to 250 feet north of Prairie Ridge Drive.  
*(Ord. 2014-800 – Jan. 15 Supp.)*
  - D. On West Bridge Road from South Third Street (Highway 415) west to the City limits;
  - E. On Parker Boulevard, from West Bridge Road to a point 700 feet south of the intersection with West Waukonsa Avenue.
  - F. On East Northside Drive from N. 3<sup>rd</sup> Street to N. 6<sup>th</sup> Street.  
*(Ord. 2008-700 – Dec. 08 Supp.)*
4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On East Northside Drive from N. 6<sup>th</sup> Street to the east City limit;  
*(Ord. 2008-700 – Dec. 08 Supp.)*
  - B. On North Third Street from 3,810 feet north of Broadway to the north City limit;
  - C. On Third Street from 2,008 feet south of Broadway to the south City limit;
  - D. On N. Broadway from 250 feet north of Prairie Ridge Drive to the City limits.  
*(Ord. 2014-800 – Jan. 15 Supp.)*

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

*(Code of Iowa, Sec. 321.294)*

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## CHAPTER 64

# TURNING REGULATIONS

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

*(Code of Iowa, Sec. 321.311)*

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

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Through Streets – Stop

65.02 Stop Required

65.03 Four-Way Stop Intersections

65.04 Yield Required

65.05 School Stops

65.06 Stop Before Crossing Sidewalk

65.07 Stop When Traffic Is Obstructed

65.08 Yield to Pedestrians in Crosswalks

65.09 Three-Way Stop Intersections

**65.01 THROUGH STREETS – STOP.** Every driver of a vehicle shall stop, unless a yield is permitted by this chapter, at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering an intersection with the following designated through streets.

*(Code of Iowa, Sec. 321.345)*

1. Highway 415 within the City.

**65.02 STOP REQUIRED.** Every driver of a vehicle shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the following designated stop intersections:

*(Code of Iowa, Sec. 321.345)*

1. The entrance from Walker Street to Broadway;
2. The entrance from Summer Street to Broadway;
3. The entrance from First Street to Broadway;
4. The entrance from Second Street to Broadway;
5. The entrance from Fourth Street to Broadway;
6. The entrance from Fifth Street to Broadway;
7. The entrance from Booth Street to Broadway;
8. The entrance from Bennett Street to Broadway;
9. The entrance from Forest Street to Broadway;
10. The entrance from Tyler Street to Broadway;
11. The entrance from Jester Park Drive to Broadway;
12. The entrance from Southside Drive to Third Street;
13. The entrance from West Bridge Road to Third Street;
14. The entrance from Davis Street to Third Street;
15. The entrance from Grimes Street to Third Street;
16. The entrance from Church Street to Third Street;
17. The entrance from Wood Street to Third Street;

18. The entrance from Van Dorn Street to Third Street;
19. The entrance from Walnut Street to North Third Street;
20. The entrance from Bluff Street to North Third Street;
21. The entrance from East Northside Drive to North Third Street;
22. The entrance from East Madison Drive to North Third Street;
23. The entrance from Van Dorn Street to Booth Street;
24. The entrance from Prospect Street to Booth Street;
25. The entrance from Roosevelt Street to Washington Street;
26. The entrance from Lincoln Street to Washington Street;
27. The entrance from Adams Street to Washington Street;
28. The entrance from Hillcrest Drive to Washington Street;
29. The entrance from Phillips Street to Roosevelt Street;
30. The entrance from Tyler Street to Davis Street;
31. The entrance from Stippich Street to Phillips Street;
32. The entrance from Fourth Street to Grimes Street;
33. *(Repealed by Ord. 2010-600 – May 10 Supp.)*;
34. The entrance from Fifth Street to Van Dorn Street;
35. The entrance from Second Street to Wood Street;
36. The entrance from Church Street to Fourth Street;
37. The entrance from North Sixth Street to East Northside Drive;
38. The entrance from Northwest 55<sup>th</sup> Street to State Highway 415;
39. The entrance from Lincoln Street to Phillips Street;
40. The entrance from Lyndale Drive to Tyler Street;
41. The entrance from Westside Drive to Tyler Street;
42. The entrance from Tyler Street to Washington Street;
43. The entrance from Stippich Street to Davis Street;
44. The entrance from Hillcrest Street to Bel-Aire Road;
45. The entrance from North Cherokee Drive to West Jester Park Drive;
46. The entrance from West Cheyenne Court to North Cherokee Drive;
47. The entrance from Northwest Wahkonsa Avenue to Parker Boulevard;
48. The entrance from North Cherokee Drive to Northwest Wahkonsa Avenue;
49. The entrance from Parker Boulevard to West Broadway;
50. The entrance from West Prairie Wood Court to North Broadway;
51. The entrance from Juliana Court to West Broadway;
52. The entrance from Sandpiper Court to South Third Street;



53. The entrance from Deer Haven Street to Pine Ridge Drive;
54. The entrance from Pine Ridge Drive to South Third Street;
55. The entrance from Pine Valley Place to Pine Ridge Drive;
56. The entrance from Pine Ridge Drive to Southside Drive;
57. The entrance from Timberline Drive to Deer Haven Street;
58. The entrance from Whispering Pine Avenue to Deer Haven Street;
59. The entrance from Sandpiper Court to South Fifth Street;
60. The entrance from South Fifth Street to West Bridge Road;
61. The entrance from West Ridge Court to North Cherokee Drive;
62. *(Repealed by Ord. 2013-1400 – Jan. 14 Supp.);*
63. *(Repealed by Ord. 2013-1400 – Jan. 14 Supp.);*
64. *(Repealed by Ord. 2013-1400 – Jan. 14 Supp.);*
65. The entrance from Tyler Street to Bridge Street;
66. The entrance from East Hansen Place to South Timberline Drive;
67. The entrance from Mallard Bay Place to Timberline Drive;
68. The entrance from Lake View Avenue to Cedar Drive;
69. The entrance from Cedar Road to Timberline Drive;
70. The entrance from Cedar Drive to Southside Drive;
71. The entrance from Tyler Street to West Bridge Road;
72. The entrance from Edgewater Drive to Tyler Street;
73. The entrance from Tyler Street to Davis Street;
74. The entrance from Vista Lake Court to North Third Street;
75. The entrance from Vista Lake Court to Wolf Creek Drive;
76. The entrance from Wolf Creek Drive to North Third Street;
77. The entrance from West Trace Drive to Wolf Creek Drive;
78. The entrance from Wolf Creek Drive to West Trace Drive;
79. The entrance from Prairie Ridge Drive to North Broadway Street;
80. The entrance from Prairie Ridge Lane to Prairie Ridge Drive;
81. The entrance from Oakwood Drive to West Broadway Street;
82. The entrance from Oakwood Place to Oakwood Drive;
83. The entrance from King’s Place to West Broadway Street;
84. The entrance from Tradition Drive to West Broadway Street;
85. The entrance from East Pine Ridge Drive to East Southside Drive;
86. The entrance from Marina Cove Court to Marina Cove Drive;
87. The entrance from Marina Cove Drive to East Southside Drive;

- 88. The entrance from Anchor Away Drive to East Southside Drive;
- 89. The entrance from West Indian Point Way onto Parker Boulevard;
- 90. The entrance from Tournament Club Way onto North Broadway;
- 91. The entrance from Phillips Street to North Parker Boulevard;
- 92. The entrance from West Washington Street to North Parker Boulevard;
- 93. The entrance from Parker Boulevard to West Bridge Road.
- 94. The entrance from Maple Drive to Lyndale Drive.
- 95. The entrance from Maple Drive to Westside Drive.
- 96. The entrance from Westside Drive to N. Parker Boulevard.
- 97. The entrance from Crestmoor Drive to Westside Drive.
- 98. The entrance from Lyndale Drive to N. Parker Boulevard.
- 99. The entrance from Westside Drive to Crestmoor Drive.  
*(Ord. 2007-1300 – Dec. 07 Supp.)*  
*(Ord. 2007-1400 – Dec. 07 Supp.)*
- 100. The entrance from Northern Trace Court to West Trace Drive.
- 101. The entrance from Northern Trace Court to Wolf Creek Drive.  
*(Ord. 2008-400 – Dec. 08 Supp.)*
- 102. The entrance from Winding Creek Circle to S. 3<sup>rd</sup> Street (Hwy. 415).  
*(Ord. 2009-700 – Dec. 09 Supp.)*
- 103. The entrance from Adams Street to Phillips Street.
- 104. The entrance from E. Pine Ridge Drive to Anchor Away Drive.
- 105. The entrance from Anchor Away Drive to Marina Cove Drive.  
*(Ord. 2016-1700 – Jan. 17 Supp.)*
- 106. The entrance from Orchard Lane to N. Broadway Street.
- 107. The entrance from Boulder Pointe to W. Broadway Street.  
*(Ord. 2012-1200 – Mar. 13 Supp.)*
- 108. The entrance from E. Vista Lake Avenue to North 3<sup>rd</sup> Street.  
*(Ord. 2013-600 – Jan. 14 Supp.)*
- 109. The entrance from Falcon Drive to N. Broadway Street;
- 110. The east and west entrance from Falcon Drive to Lost Lake Drive;
- 111. The entrance from Lost Lake Drive to W. Jester Park Drive;
- 112. The entrance from Robin Court to Lost Lake Drive;
- 113. The entrance from Meadow Lark Drive to Lost Lake Drive;
- 114. The entrance from Tanglewood Drive to W. Washington Street;
- 115. The entrance from Tanglewood Drive to Woodhaven Drive;
- 116. The entrance from Lyndale Drive to N. Parker Boulevard;
- 117. The entrance from Lyndale Drive to Tanglewood Drive;

118. The entrance from Sweetwater Circle to Tanglewood Drive;
119. The entrance from Adams Street to Phillips Street;
120. The entrance from Summer Street to Grimes Street;
121. The entrance from 2<sup>nd</sup> Street to Grimes Street;  
(*Ord. 2013-1400 – Jan. 14 Supp.*)
122. The entrance from N. 6<sup>th</sup> to Madison Drive;
123. The entrance from Walker Street to E. Van Dorn Street;
124. The entrance from Summer Street to E. Wood Street (both sides);
125. The entrance from 1<sup>st</sup> Street to Church Street (both sides);
126. The entrance from 2<sup>nd</sup> Street to Church Street (both sides);
127. The entrance from Waldo Street to Tyler Street;
128. The entrance from Waldo Street to Stippich Street;
129. The entrance from Lyndale to Forest Street;
130. The entrance from Sunset to Westside Drive;
131. The entrance from Sunset to Crestmoor Drive;
132. The entrance from Oaklyn Drive to Lyndale Drive;
133. The entrance from First Street to Wood Street (both sides);
134. The entrance from First Street to Van Dorn Street (both sides);  
(*Ord. 2014-2000 – Jan. 15 Supp.*)
135. The entrance from Summer Street to E Church;
136. The entrance from Summer Street to E Van Dorn;
137. The entrance from Walker Street to E Church;
138. The entrance from Walker Street to E Wood;
139. The entrance from W Van Dorn Street to Bennett;
140. The entrance from Edgewater Drive to Parker Boulevard;
141. The entrance from Seagrass Avenue to Bridgeview Street;
142. The entrance from Seagrass Avenue to Pelican Drive;
143. The entrance from Breakwater Place to Seagrass Avenue;
144. The entrance from Twelve Oaks Drive to E Southside Drive;
145. The entrance from Twelve Oaks Court to Twelve Oaks Drive;  
(*Ord. 2015-100 – Jan. 16 Supp.*)
146. The entrance from Cardinal Drive to Lost Lake Drive;
147. The entrance from Starling Court to Cardinal Drive;
148. The entrance from Prairie Ridge Drive to Cardinal Drive;
149. The entrance from Lost Lake Drive to Prairie Ridge Drive;  
(*Ord. 2016-2300 – Jan. 17 Supp.*)
150. The entrance from Deer Haven Street to E. Broadway Street;

151. The entrance from E. Van Dorn Street to Deer Haven Street;
152. The entrance from E. Wood Street to Deer Haven Street;
153. The entrance from E. Church Street to Deer Haven Street;
154. The entrance from E. Grimes Street to Deer Haven Street;
155. The entrance from Oakford Lane to Deer Haven Street;
156. The entrance from Burton Drive to E. Grimes Street.

*(Subsections 150-156 – Ord. 2017-900 – Jan. 18 Supp.)*

**65.03 FOUR-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the following designated four-way stop intersections:

*(Code of Iowa, Sec. 321.345)*

1. Intersection of Third Street and Broadway;
2. Intersection of Fourth Street and Van Dorn.
3. Intersection of Tyler Street and Davis Street.
4. Intersection of Crestmoor Drive and Lyndale Drive.  
*(Ord. 2007-1400 – Dec. 07 Supp.)*
5. Intersection of Second Street and W. Van Dorn Street.  
*(Ord. 2010-600 – May 10 Supp.)*

**65.04 YIELD REQUIRED.** Every driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions and, if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the following designated yield intersections:

*(Code of Iowa, Sec. 321.345)*

1. *(Repealed by Ord. 2014-2000 – Jan. 15 Supp.)*

**65.05 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. On West Broadway between the West Elementary School and the United Methodist Church.

**65.06 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)*

**65.07 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.

**65.08 YIELD TO PEDESTRIANS IN CROSSWALKS.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

*(Code of Iowa, Sec. 321.327)*

**65.09 THREE-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the following designated three-way stop intersection:

1. Intersection of 1<sup>st</sup> Street and Grimes Street.

*(Ord. 2013-1400 – Jan. 14 Supp.)*

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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 Route

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

*(Code of Iowa, Sec. 321.471 & 472)*

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

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

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

*(Code of Iowa, Sec. 321.473 & 475)*

- NONE -

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

*(Code of Iowa, Sec. 321.471)*

**66.05 TRUCK ROUTE.** Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

*(Code of Iowa, Sec. 321.473)*

- A. Broadway from the north City limit to Third Street;
- B. Third Street from the south City limit to the north City limit;

- C. Bridge Road from the west City limit to Third Street;
  - D. Northside Drive from the east City limit to Third Street.
2. Deliveries Off Truck Route. Any motor vehicle weighing five (5) 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)*



**CHAPTER 67**  
**PEDESTRIANS**

**67.01 Walking in Street**  
**67.02 Hitchhiking**

**67.03 Pedestrian Crossing**  
**67.04 Use Sidewalks**

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

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

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## CHAPTER 68

### ONE-WAY TRAFFIC

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

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

- NONE -

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## CHAPTER 69

# PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.07 Persons With Disabilities Parking
69.02 Park Adjacent to Curb - One-way Street	69.08 No Parking Zones
69.03 Angle Parking	69.09 Truck Parking Limited
69.04 Angle Parking – Manner	69.10 Loading Zones
69.05 Parking for Certain Purposes Illegal	69.11 Winter Parking
69.06 Parking Prohibited	

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

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

*(Code of Iowa, Sec. 321.361)*

1. West Broadway on the south side from Second Street to Third Street;
2. Second Street on both sides from West Broadway to West Van Dorn Street;
3. West Van Dorn Street on both sides from Second Street to Third Street;
4. Second Street on the west side from West Wood Street to West Church Street.

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

*(Code of Iowa, Sec. 321.361)*

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

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

1. Sale. Displaying such vehicle for sale;

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

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

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

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

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

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

*(Code of Iowa, Sec. 321.360)*

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

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

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

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

17. 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.

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. The parking of vehicles of any kind on public easements is prohibited unless specific action by the Council allows such parking to occur.

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

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;

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

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

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

1. Westside Drive on the north and northeasterly side from Crestmoor to Tyler;  
*(Ord. 2017-600 – Jan. 18 Supp.)*
2. Sunset Street on the south and southeasterly side from Crestmoor Drive to Westside Drive;
3. Lyndale Drive on the north side from N. Parker Boulevard to Tyler Street;  
*(Ord. 2007-1200 – Dec. 07 Supp.)*
4. Bel-Aire Road on the south side from Crestmoor Drive to Oaklyn Drive;
5. Crestmoor Drive on the west side between Bel-Aire Road and Westside Drive;
6. Oaklyn Drive on the east side between Bel-Aire Road and Lyndale Drive;
7. Tyler Street on the west and northwest side between Broadway Street and the southern end of Tyler Street;
8. Tyler Street on the south and southeasterly side between Lyndale Drive and Broadway Street;
9. Lyndale Drive on the south and southwesterly side between Tyler Street and Forest Street;
10. Forest Street on the southeasterly side between Broadway Street and the southwesterly end of Forest Street;
11. Hillcrest Drive on the east side between Washington Street and Bel-Aire Road;
12. W. Washington Street on the south side from N. Parker Boulevard to Booth Street;  
*(Ord. 2013-1400 – Jan. 14 Supp.)*
13. Booth Street on both sides between Broadway Street and Washington Street;



14. Adams Street on the west side between Phillips Street and Washington Street;
15. Lincoln Street on the east side between Phillips Street and Washington Street;
16. Roosevelt Street on the west side between Davis Street and Washington Street;
17. Phillips Street on the northeasterly side between N. Parker Boulevard and Roosevelt Street;  
*(Ord. 2013-1400 – Jan. 14 Supp.)*
18. Tyler Street on the easterly side between Davis Street and Phillips Street;
19. Davis Street on the south side between Roosevelt Street and South Third Street;  
*(Ord. 2016-2300 – Jan. 17 Supp.)*
20. Waldo Street on the south side between Tyler Street and Stippich Street;
21. Phillips Street on the south and southeasterly side between Tyler Street and Grimes Street;
22. Stippich Street on the west side between Davis Street and the north end of Stippich Street;
23. Third Street on both sides between Bluff Street and the north City limit;
24. East Northside Drive on both sides between North Third Street and the east City limit;
25. East Madison Drive on both sides between North Third Street and North Sixth Street;
26. North Sixth Street on both sides between East Northside Drive and East Madison Drive;
27. Tyler Street on both sides between Broadway Street and Washington Street;
28. Davis Street on the north side between Roosevelt Street and a point 403 feet east;  
*(Ord. 2016-2300 – Jan. 17 Supp.)*
29. Roosevelt Street on the east side between Washington Street and a point 80 feet south;
30. Broadway Street on both sides between Third Street and Jester Park Drive;
31. Fourth Street on the west side from Van Dorn Street north to a point halfway between Van Dorn Street and Broadway Street;
32. Second Street on the east side from 66 feet south of Broadway Street to a point 99 feet south of Broadway Street;
33. Third Street on the east side from Van Dorn Street to a point 72 feet north;
34. Northwesterly 32 feet of the alley adjacent to the southwesterly line of Lot 7 of Block 14 of the Original Town;
35. Pine Ridge Drive on the north, northeast side between South Third Street and Southside Drive;
36. Pine Valley Place on the east side through the cul-de-sac;
37. Sandpiper Court on both sides from South Third Street to South Fifth Street;

38. South Fifth Street on both sides from Sandpiper Court to West Bridge Road;
39. Northwest Wahkonsa Avenue on the south, southwesterly side from Parker Boulevard to North Apache Street;
40. North Apache Street on the west side from Northwest Wahkonsa Avenue to West Cherokee Court;
41. West Cheyenne Court on the north side from North Apache Street to North Cherokee Drive;
42. North Cherokee Drive on the east side from West Jester Park Drive to West Wahkonsa Avenue;
43. West Ridge Court on the south side through the cul-de-sac;
44. Deer Haven Street on the easterly side from E. Pine Ridge Drive to E. Broadway Street;  
*(Ord. 2017-900 – Jan. 18 Supp.)*
45. Whispering Pine Avenue on the north-northwesterly side starting from the west end through the cul-de-sac;
46. East Timberline Drive on the south side between South Deer Haven Street through the cul-de-sac;
47. Mallard Bay Place on the east side to Lakeview Avenue;
48. Lakeview Avenue on the south side of the street including both cul-de-sacs;
49. Cedar Drive on the west side of street from Timberline Drive to Southside Drive;
50. Tyler Street on the east side from West Bridge Road to Davis Street;
51. Edgewater Drive on the north side beginning at 831 Edgewater Drive to Tyler Street;
52. Edgewater Drive on the west side beginning at 817 Edgewater Drive through 831 Edgewater Drive;
53. Edgewater Drive on the south side beginning at 801 Edgewater Drive through 817 Edgewater Drive;
54. East Hansen Place on the west side beginning at 440 South Timberline Drive continuing through the cul-de-sac to 500 East Hansen Place;
55. East Hansen Place on the south side beginning at 500 Hansen Place through the cul-de-sac to 1191 East Hansen Place;
56. East Hansen Place on the west side from Timberline Drive to Lot 23;
57. Vista Lake Court on the north side from North Third Street to Wolf Creek Drive;
58. Wolf Creek Drive on the south, westerly and southwesterly side from the north property boundary of Wolf Creek Townhomes Plat 6 to North Third Street;  
*(Ord. 2008-400 – Dec. 08 Supp.)*
59. West Trace Drive on the west-southwesterly side from the north property boundary of Wolf Creek Townhomes Plat 6 to Wolf Creek Drive;  
*(Ord. 2008-400 – Dec. 08 Supp.)*

60. Prairie Ridge Drive on the south-southwesterly side from North Broadway Street through the cul-de-sac;
61. Prairie Ridge Lane on the west side from the north end through through the cul-de-sac;
62. West Ridge Court on the north side from North Cherokee Drive to a point 50 feet southwesterly;
63. West Trace Drive on the north side from Wolf Creek Drive to a point 60 feet west;
64. Oakwood Place on the east side from Oakwood Drive through the cul-de-sac;
65. Oakwood Drive beginning on the north-northwesterly side from North Broadway continuing on the same side of the street through the cul-de-sac;
66. King's Place on the west side from Lot 6 through the cul-de-sac to West Broadway Street;
67. Tradition Drive on the east side from West Broadway to a point 150 feet north;
68. Tradition Drive on the west side from West Broadway continuing on the same side of the street to 1001 Tradition Drive;
69. E. Southside Drive on the south and southwesterly side from S. 3<sup>rd</sup> Street through the cul-de-sac; *(Ord. 2013-1400 – Jan. 14 Supp.)*
70. Marina Cove Drive on the west-southwesterly side from East Southside Drive extending past Anchor Away Drive; *(Ord. 2016-1700 – Jan. 17 Supp.)*
71. Marina Cove Court on the north side starting at 231 Marina Cove Court and continuing through the cul-de-sac through 230 Marina Cove Court;
72. Anchor Away Drive on the east side from East Southside Drive to Marina Cove Drive; *(Ord. 2011-600 – Jan. 12 Supp.)*
73. East Pine Ridge Drive on the west side from the intersection of East Southside Drive to a point 135 feet north;
74. Pine Ridge Drive on the east-northeasterly side from East Southside Drive to Anchor Away Drive; *(Ord. 2011-600 – Jan. 12 Supp.)*
75. North Parker Boulevard on both sides from West Bridge Road to West Broadway;
76. Maple Drive on the east side from Westside Drive to Lyndale Drive;
77. Maple Drive on the east side through the cul-de-sac; *(Ord. 2007-1200 – Dec. 07 Supp.)*
78. Northern Trace Court on the south side from West Trace Drive to Wolf Creek Drive;
79. Northern Trace Court on the north side from West Trace Drive to a point 60 feet northeasterly; *(Ord. 2008-400 – Dec. 08 Supp.)*

80. 2<sup>nd</sup> Street on the west side from W. Van Dorn Street to a point 99 feet south;  
(*Ord. 2008-600 – Dec. 08 Supp.*)
81. W. Van Dorn Street on the north side from Booth Street to 4<sup>th</sup> Street;
82. W. Van Dorn Street on the south side between 4<sup>th</sup> Street and a point 60 feet west;
83. Winding Creek Circle through the cul-de-sac; (*Ord. 2009-700 – Dec. 09 Supp.*)
84. W. Van Dorn Street on the north side from S. 2<sup>nd</sup> Street to S. 1<sup>st</sup> Street;  
(*Ord. 2017-900 – Jan. 18 Supp.*)
85. (Repealed by Ord. 2016-1700 – Jan. 17 Supp.)
86. N. 3<sup>rd</sup> Street on the west side from Walnut Street to a point 40 feet northwesterly;  
(*Ord. 2012-700 – Mar. 13 Supp.*)
87. Orchard Lane beginning on the south side from N. Broadway Street continuing on the same side of the street through the cul-de-sac;
88. Boulder Pointe on both sides from W. Broadway Street northeasterly to 300 Boulder Pointe;  
(*Ord. 2012-1200 – Mar. 13 Supp.*)
89. E. Vista Lake Avenue on both sides from North 3<sup>rd</sup> Street to the east end of E. Vista Lake Avenue;  
(*Ord. 2013-600 – Jan. 14 Supp.*)
90. E. Southside Drive on the north and northeasterly side from Cedar Drive south and east to the cul-de-sac;
91. Juliana Court through the cul-de-sac;
92. Flacon Drive on the south and southwesterly side from N. Broadway Street to the end;
93. Meadow Lake Drive on the north and northwesterly side from Lost Lake Drive to the end;
94. Lost Lake Drive on the westerly side from Jester Park Drive to Prairie Ridge Drive;  
(*Ord. 2016-2300 – Jan. 17 Supp.*)
95. Robin Court on the north and south sides and through the cul-de-sac;
96. Tanglewood Drive on the south and southwesterly side from W. Washington Street to Woodhaven Drive;
97. Woodhaven Drive on the westerly side from the north end and through the cul-de-sac;
98. Lyndale Drive on the west and northwest sides from Parker Boulevard to Tanglewood Drive;
99. Sweet Water Circle on the east and west sides and through the cul-de-sac;
100. Jester Park Drive on the south side from N. Cherokee Drive to N. Broadway Street;
101. Jester Park Drive on the north side from N. Broadway Street west 200 feet;
102. W. Grimes Street on the northerly side from S. 3<sup>rd</sup> Street to S. 1<sup>st</sup> Street;  
(*Ord. 2017-900 – Jan. 18 Supp.*)

103. W. Grimes Street on the southerly side from S. 3<sup>rd</sup> Street 100 feet easterly;  
*(Ord. 2017-900 – Jan. 18 Supp.)*
104. Phillips Street on the south side from N. Parker Boulevard 110 feet east;
105. W. Washington Street on the north side between Booth Street and Tyler Street;
106. W. Washington Street on the north side between Hillcrest Drive and N. Parker Boulevard;  
*(Ord. 2013-1400 – Jan. 14 Supp.)*
107. Twelve Oaks Court on the south side between Twelve Oaks Drive and through the cul-de-sac;
108. Twelve Oaks Drive on the west side to the end of E Southside Drive;
109. Edgewater Drive on the north and south side from Parker Boulevard to Bridgeview Street;
110. Bridgeview Street on the west side from Edgewater Street to the end of the street;
111. Bridgeview Street on the east side from Edgewater Street to a point 80' north;
112. Seagrass Avenue on the north side from Bridgeview Street to Pelican Drive;
113. Breakwater Place on the west side from Seagrass Avenue through the cul-de-sac;
114. Pelican Drive on the west side through the cul-de-sac;  
*(Ord. 2015-100 – Jan. 16 Supp.)*
115. N. Broadway Street on both sides from Jester Park Drive to the City Limits;  
*(Ord. 2015-300 – Jan. 16 Supp.)*
116. Cardinal Drive on the south and westerly side and through the cul-de-sac;
117. Starling Court on the north and south sides and through the cul-de-sac;
118. Prairie Ridge Drive on the north and south sides from Cardinal Drive to North Broadway Street;  
*(Ord. 2016-2300 – Jan. 17 Supp.)*
119. Westside Drive on the south side from N. Parker Boulevard to Crestmoor;  
*(Ord. 2017-600 – Jan. 18 Supp.)*
120. Westside Drive on the north side from Parker Boulevard to a point 200 feet east;
121. E. Grimes Street on the northerly side from S. 1<sup>st</sup> Street east through the cul-de-sac;
122. E. Grimes Street on the south side from Deer Haven Street to a point 150' west and east;
123. Burton Drive on the east and southeast side from E. Grimes Street through the cul-de-sac;
124. Oakford Lane on the north and south sides from E. Bridge Road east through the cul-de-sac;
125. W. Church Street on the north side from S. 3<sup>rd</sup> Street to S. 1<sup>st</sup> Street;
126. E. Church Street on the north side from S. 1<sup>st</sup> Street to Deer Haven Street;

127. E. Church Street on the south side from Deer Haven Street to a point 150' west;
128. W. Wood Street on the south side from S. 2<sup>nd</sup> Street to S. 1<sup>st</sup> Street;
129. E. Wood Street on the south side from S. 1<sup>st</sup> Street to Deer Haven Street;
130. E. Wood Street on the north side from Deer Haven Street to a point 150' west;
131. E. Van Dorn Street on the north side from S. 1<sup>st</sup> Street to Deer Haven Street;
132. E. Van Dorn Street on the south side from Deer Haven Street to a point 150' west;
133. Deer Haven Street on the west side from E. Broadway Street to a point 150' feet south.

*(Subsections 120-133 – Ord. 2017-900 – Jan. 18 Supp.)*

**69.09 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. City Streets. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any street within the City. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Noise. No such vehicle shall be left standing or parked upon a driveway or lot within any residentially zoned district between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds.
3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

**69.10 LOADING ZONES.** Except for the purpose of loading or unloading goods or merchandise, no person shall stop, stand or park a vehicle in the following designated loading zones:

1. The northwesterly 32 feet of the alley adjacent to the southwesterly line of Lot 7 of Block 14 of the Original Town of Polk City;
2. The southeasterly 55 feet of the northwesterly 87 feet of the alley adjacent to the southwesterly line of Lot 7 of Block 14 of the Original Town of Polk City;
3. The north side of Broadway Street between Second Street and Third Street.

**69.11 WINTER PARKING.** A snow ordinance is in effect any time there is one inch (1") accumulation of snow or any accumulation of ice. Therefore, no person shall park, abandon or leave unattended any vehicle on any public street during such times of any snow fall or ice accumulation or for a period of twenty-four hours (24) after the termination of any snow fall or ice accumulation. The Police Chief is hereby given authority to erect emergency no-parking snow removal signs at such time as the Police Chief believes appropriate and proper. No person shall park his or her car in violation of such emergency no-parking snow removal signs.

*(Ord. 2016-200 – Jan. 17 Supp.)*

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

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

**70.03 PARKING VIOLATIONS: ALTERNATE.** Admitted violations, or parking violations which are uncontested, of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of forty-five dollars (\$45.00) for all violations except improper use of a person with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

*(Ord. 2016-300 – Jan. 17 Supp.)*

*(Code of Iowa, Sec. 321.236 [1a] & 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 AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

1. “All-terrain vehicle” or “ATV” means a motorized flotation-tire vehicle, with not less than three (3) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. “Off-road utility vehicle” means a motorized flotation-tire vehicle, with not less than four (4) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than one thousand eight hundred (1,800) pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. “Snowmobile” means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (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 which has been altered or equipped with runners, skis, belt-type tracks or treads.

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

*(Ord. 2007-1900 – Dec. 07 Supp.)*

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

*(Ord. 2007-1900 – Dec. 07 Supp.)*

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

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

1. Streets. Snowmobiles shall be operated on designated trails only.  
*(Code of Iowa, Sec. 321G.9[4a])*
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:
  - A. Emergencies. Snowmobiles may be operated in emergencies declared by the Mayor or Police Chief on streets or in areas so designated in the emergency declaration.  
*(Code of Iowa, Sec. 321G.9[4c])*
  - B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:
    - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
    - (2) The snowmobile is brought to a complete stop before crossing the street;
    - (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
    - (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.  
*(Code of Iowa, Sec. 321G.9[2])*
3. Railroad Right-of-way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.  
*(Code of Iowa, Sec. 321G.13[1h])*
4. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.  
*(Code of Iowa, Sec. 321G.9[4g])*
5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.
6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or

property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

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

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

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

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

*(Code of Iowa, Sec. 321I.10[4])*

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

*(Code of Iowa, Sec. 321I.14[1h])*

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

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

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

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

**75.07 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

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**CHAPTER 76**  
**BICYCLE ORDINANCE**

<b>76.01 Definitions</b>	<b>76.11 Control With Hands on Handlebars</b>
<b>76.02 Scope of Regulations</b>	<b>76.12 Place of Riding</b>
<b>76.03 Alteration of Serial Frame Number</b>	<b>76.13 Bicycle Lanes</b>
<b>76.04 Sirens and Whistles Prohibited</b>	<b>76.14 Emerging from Alley or Driveway</b>
<b>76.05 Lamps and Reflectors</b>	<b>76.15 Operation on Sidewalk</b>
<b>76.06 Stopping</b>	<b>76.16 Clinging to Other Vehicles</b>
<b>76.07 Applicability of Motor Vehicle Laws</b>	<b>76.17 Following Emergency Vehicles</b>
<b>76.08 Obedience to Signals</b>	<b>76.18 Parking</b>
<b>76.09 Improper Riding</b>	<b>76.19 Reckless Operation</b>
<b>76.10 Carrying Packages</b>	<b>76.20 Violations</b>

**76.01 DEFINITIONS.**

1. "Bicycle" means either of the following:
  - A. A device having up to four wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
  - B. A device having up to four wheels with fully operable pedals and an electric motor of one horsepower or less.
2. "Multi-use trail" means a way or place, the use of which is controlled by the City as an owner of real property, designated by the multi-use recreational trail maps, as approved by resolution by the City Council, and no multi-use trail shall be considered as a street or highway.

**76.02 SCOPE OF REGULATIONS.** These regulations shall apply whenever a bicycle is operated upon any street or upon any multi-use trail, subject to those exceptions stated herein.

**76.03 ALTERATION OF SERIAL FRAME NUMBER.** It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the manufacturer's serial frame number of any bicycle.

**76.04 SIRENS AND WHISTLES PROHIBITED.** A bicycle shall not be equipped with and a person shall not use upon a bicycle any siren or whistle. This section shall not apply to bicycles ridden by peace officers in the line of duty.

**76.05 LAMPS AND REFLECTORS.**

1. Every bicycle ridden at any time from sunset to sunrise and at such other times when conditions such as fog, snow, sleet, or rain provide insufficient lighting to render clearly discernible persons and vehicles on the highway at a distance of three hundred feet ahead shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least three hundred feet to the front.
2. Every bicycle shall be equipped with a lamp on the rear exhibiting a red light visible from a distance of three hundred feet to the rear; except that a red reflector may be used in lieu of a rear light.

3. Equivalent equipment such as headlamps and red light attachments to the arm or leg may be used in lieu of a lamp on the front and a red light on the rear of the bicycle.
4. A peace officer riding a police bicycle is not required to use either front or rear lamps if duty so requires.

**76.06 STOPPING.** Every bicycle used upon the City streets, sidewalks, highways, park roads or multi-use trails shall be able to come to a complete stop within a safe distance.

**76.07 APPLICABILITY OF MOTOR VEHICLE LAWS.** Every person operating a bicycle upon the City streets, highways, park roads, or multi-use trails shall be subject to this chapter and other City traffic ordinances and the state statutes applicable to the drivers of motor vehicles, except as to special regulations in this chapter and except as to those provisions of ordinances and statutes which by their nature can have no application or those provisions for which specific exceptions have been set forth regarding police bicycles.

**76.08 OBEDIENCE TO SIGNALS.** Every person operating a bicycle shall obey the directions of official traffic signals, signs and other control devices applicable to other vehicles, unless otherwise directed by a police officer, and shall obey direction signs relative to turns permitted, unless such person dismounts from the bicycle, when he or she shall then obey the regulations applicable to pedestrians.

**76.09 IMPROPER RIDING.**

1. A person propelling a bicycle on any street, sidewalk, highway, park road or multi-use recreational trail, shall not ride other than upon or astride a permanent and regular seat attached to the bicycle and shall not use a bicycle to carry more persons at one time than the number of persons for which the bicycle is designed and equipped.
2. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

**76.10 CARRYING PACKAGES.** No person operating a bicycle upon a street, sidewalk, highway, park road or multi-use trail shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.

**76.11 CONTROL WITH HANDS ON HANDLEBARS.** The operator of a bicycle upon a street, sidewalk, highway, park road or multi-use trail shall keep the bicycle under control at all times and at all times during operation shall have one or both hands upon the handlebars and the feet engaged with the braking device if the braking device is designed to be actuated by the feet.

**76.12 PLACE OF RIDING.**

1. Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:
  - A. When overtaking and passing another bicycle vehicle proceeding in the same direction.

- B. When preparing for a left turn at an intersection or into a private road or driveway.
  - C. When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.
  - D. A facility that would allow bicycle traffic on the left side of the roadway.
2. Any person operating a bicycle upon a roadway which carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of such roadway as practicable.
  3. When so riding upon any multi-use trail with other cyclists, there shall not be more than two abreast.
  4. Whenever a usable multi-use trail for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
  5. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

#### **76.13 BICYCLE LANES.**

1. Whenever a bicycle lane has been established on a roadway, any person operating a bicycle upon the roadway moving in the same direction may ride within the bicycle lane.
2. Any person operating a bicycle within a bicycle lane may move out of the lane when overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane.
3. No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal.
4. No person shall drive a motor vehicle in a bicycle lane established on a roadway except as follows:
  - A. To park where parking is permitted.
  - B. To enter or leave the roadway.
  - C. To prepare for a turn within a distance of 200 feet from the intersection.

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

**76.15 OPERATION ON SIDEWALK.** Bicycles may be operated upon the public sidewalks in a careful and prudent manner and except where signs are erected prohibiting riding on the sidewalk. Every person lawfully operating a bicycle upon a public sidewalk, shall yield the right-of-way when approaching a pedestrian and shall give an audible signal before overtaking and passing.

**76.16 CLINGING TO OTHER VEHICLES.** No person riding upon any bicycle on a street, sidewalk, highway, park road or multi-use trail shall attach the bicycle or himself or herself to any moving vehicle by tow rope, hand grip or otherwise.

**76.17 FOLLOWING EMERGENCY VEHICLES.** No person riding a bicycle shall follow closer than 500 feet of an emergency vehicle as defined by Iowa Code section 321.1 which has emergency lights and/or siren activated, and shall not stop, park, or leave a bicycle within 500 feet of an emergency vehicle stopped in response to an emergency.

**76.18 PARKING.** No person shall leave a bicycle lying on its side on any sidewalk, or shall park a bicycle on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic. Local authorities may, by ordinance or resolution, prohibit bicycle parking in designated areas of the public highway, provided that appropriate signs are erected.

**76.19 RECKLESS OPERATION.** No person shall operate a bicycle with willful or wanton disregard for the safety of persons or property.

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

*(Ch. 76 – Ord. 2011-900 – Jan. 12 Supp.)*

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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

80.10 Abandoned Vehicles

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

*(Code of Iowa, Sec. 321.89[1])*

1. “Abandoned vehicle” means any of the following:
  - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
  - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
  - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
  - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
  - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
  - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “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. 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 twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. 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 the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

**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 (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

**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 ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

**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])*

**80.10 ABANDONED VEHICLES.** A property owner shall have the right to employ a garage keeper to dispose of an abandoned vehicle and the garage keeper may take custody of the abandoned vehicle without the initiative of the City police authority.

*(Ord. 2009-900 – Dec. 09 Supp.)*

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## CHAPTER 90

# WATER SERVICE SYSTEM

90.01 Definitions	90.11 Responsibility for Water Service Pipe
90.02 Public Works Director's Duties	90.12 Failure to Maintain
90.03 Mandatory Connections	90.13 Curb Valve
90.04 Abandoned Connections	90.14 Interior Valve
90.05 Permit	90.15 Inspection and Approval
90.06 Connection Charge	90.16 Completion by the City
90.07 Compliance with Plumbing Code	90.17 Shutting off Water Supply
90.08 Excavations	90.18 Operation of Curb Valve and Hydrants
90.09 Tapping Mains	90.19 Water Usage Restrictions
90.10 Installation of Water Service Pipe	90.20 Liability of City

**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. "Public Works Director" means the Public Works Director of the City 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 PUBLIC WORKS DIRECTOR'S DUTIES.** The Public Works Director 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 Public Works Director 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 Public Works Director 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 public water is located within 250 feet of the property line. Once so connected, the customer may not obtain water from any other source, including private wells, without written permission of the Council. All cross connections must be eliminated. Existing properties not currently connected to the public water system and located

within 250 feet of public water system are grandfathered in until such time as there is a change in ownership of the property. *(Ord. 2011-300 – Apr. 11 Supp.)*

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

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

**90.06 CONNECTION CHARGE.** Before any permit is issued the person who makes the application shall pay a connection charge in the amount of nine hundred dollars (\$900.00) for each water main tap, plus an additional charge of seventy-five dollars (\$75.00) for each unit in excess of one which is served by the tap, to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

**90.07 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *International Plumbing Code*, the Urban Design Standards and Urban Standard Specifications and with City specifications. All installations of water service pipes and connections to the water system shall be made by a licensed plumber.

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

**90.09 TAPPING MAINS.** All taps into water mains shall be made by or under the direct supervision of the Public Works Director and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Public Works Director and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a one (1) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one (1) inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Public Works Director shall order. All taps in the mains shall be made in the top half of the

pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Public Works Director, 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 Public Works Director in such form as the Public Works Director shall require.

5. Conformity. All taps must be in conformity with the Urban Design Standards and Urban Standard Specifications.

**90.10 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be of such material as is acceptable to the City Engineer. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

**90.11 RESPONSIBILITY FOR WATER SERVICE PIPE.** All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. (Water service pipe is defined as that portion of the service line which connects to the City owned water main and supplies water to the building and includes the curb valve and ends with the inclusion of the interior valve). The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

*(Ord. 2008-1100 – Dec. 08 Supp.)*

**90.12 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])*

**90.13 CURB VALVE.** The owner shall install and maintain within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Public Works Director. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

*(Ord. 2008-1100 – Dec. 08 Supp.)*

**90.14 INTERIOR VALVE.** The owner shall install and maintain 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.

*(Ord. 2008-1100 – Dec. 08 Supp.)*

**90.15 INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Public Works Director before they are covered, and the Public Works Director shall keep a record of such approvals. If the Public Works Director 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 Public Works Director to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

**90.16 COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner, which assessment may be collected with and in the same manner as general property taxes.

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

**90.17 SHUTTING OFF WATER SUPPLY.** The Public Works Director 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 Public Works Director has ordered the water to be turned on.

**90.18 OPERATION OF CURB VALVE AND HYDRANTS.** It is unlawful for any person except the Public Works Director 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.

**90.19 WATER USAGE RESTRICTIONS.** The Council or City Administrator may impose restrictions upon the use of water for the watering or sprinkling of outdoor lawns, yards, gardens or landscaped area, or against other nonessential use, during times of emergency caused by a shortage of water supply. Any person found to be using water in violation of such restrictions shall be first warned of such violation by dated written notice. If such person is found to have violated the restrictions on a second occasion, such person's water service shall be discontinued and shall not be reconnected until a reconnection fee in the amount of one hundred fifty dollars (\$150.00) is paid to the City.

**90.20 LIABILITY OF CITY.** The City shall in no event be held responsible for claims made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruption of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages or have any portion of a payment refunded for any interruption of service which in the opinion of the City may be deemed necessary.

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## CHAPTER 91

# WATER METERS

91.01 Purpose	91.07 Meter Repairs
91.02 Water Use Metered	91.08 Right of Entry
91.03 Fire Sprinkler Systems- Exception	91.09 Meter Testing
91.04 Location of Meters	91.10 Separate Meters
91.05 Meter Setting	91.11 Meter Failure
91.06 Meter Costs	91.12 Remote Readers

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

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

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

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing. Meters shall be kept free of all vegetation or any obstructions that limit access to the meter. If the area must be cleared, a ten (10) day notice shall be mailed to the owner, and if not resolved, the City shall remove the vegetation or obstruction and bill the owner for time and materials.

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

**91.06 METER COSTS.** The full cost of any meter larger than a 3/4-inch meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

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

**91.08 RIGHT OF ENTRY.** The Public Works Director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter. Failure to comply with request to enter and inspect property shall result in a municipal infraction being filed against the owner of record of the property and legal action may be applicable.

**91.09 METER TESTING.** The Public Works Director shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay a testing charge of \$25.00.

**91.10 SEPARATE METERS.** Each individual dwelling unit of each individual, commercial or industrial premises shall be served by separate water meter, except as otherwise provided in this chapter. Multiple dwellings of three or more dwelling units and commercial or industrial premises may be served by one water meter, provided that the owner of the dwelling or premises is responsible for the payment of all water bills.

**91.11 METER FAILURE.** In the event a water meter does not register properly, the water service charges for that month shall be based upon the average monthly consumption of the prior six months.

**91.12 REMOTE READERS.** All private water connections hereafter installed, whether for residential or commercial use, shall include a remote recording device. The remote recording devices shall be installed at a convenient location on the interior or exterior of the structure served by the water service connection to register the volume of water passing through the water meter. The remote recording device shall be furnished by and remain the property of the City.

*(Ord. 2008-1100 – Dec. 08 Supp.)*

## CHAPTER 92

# WATER RATES

92.01 Service Charges  
 92.02 Water 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 WATER SERVICE.** Service shall be furnished at the following monthly rates and classification within the City:

*(Code of Iowa, Sec. 384.84)*

- Domestic rate is the water used for human consumption and needs of a particular location.

Gallons Used Per Month	Rate
First 1,000	\$11.37 (minimum bill)
All over 1,000	\$4.54 per 1,000 gallons

- Irrigation/Garden rate is the water used for irrigation/garden purposes and these water uses are billed on a separate meter from the domestic meter.

Gallons Used Per Month	Rate
All usage/1000 gallons	\$5.94 (minimum bill)

*(Ord. 2017-200 – Jan. 18 Supp.)*

**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 rates one hundred fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 364.4 & 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)*

- 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 by the first day of the following month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent (5%) of the amount due shall be added to each delinquent bill.
4. Shut Off Notices. A fee of fifteen dollars (\$15.00) shall be added to the customer's utility bill when it remains unpaid by the fifth (5<sup>th</sup>) day of the month and the Clerk's office determines a shut-off letter should be sent to the customer.
5. Handling fee of any dishonored payment. A fee of twenty-five dollars (\$25) shall be added to the customer's utility bill when any payment given to the City in payment of a utility service or any other service rendered by the City has been returned or dishonored by the bank.

*(Ord. 2016-100 – Jan. 17 Supp.)*

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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. A fee of seventy-five dollars (\$75.00) shall be charged and payable along with delinquent service amount before service is restored to a delinquent customer, provided that application is made no less than one hour prior to closing of any business day, Monday through Friday. The reinstatement fee shall be one hundred fifty dollars (\$150.00) if application is made at any other time. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

*(Ord. 2016-100 – Jan. 17 Supp.)*

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

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.** The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water

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

*(Code of Iowa, Sec. 384.84)*

**92.08 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (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 each customer a one hundred dollar (\$100.00) deposit intended to guarantee the payment of bills for service. Provided, however, if the customer elects to have payment of bills for service automatically withdrawn from their bank account through the automatic clearing house procedure the customer deposit shall be waived.

*(Ord. 2010-1900 – Apr. 11 Supp.)*

*(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. There shall be a ten dollar (\$10.00) fee for restoring service, provided that service is restored during business hours. The fee for restoring service is twenty-five (\$25.00) if application is made at any other 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.

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## CHAPTER 95

# SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Public Works Director's Duties

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

95.10 Chemical Toilets

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Public Works Director" means the Public Works Director of the City or any authorized deputy, agent, or representative.
14. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
15. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
16. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
17. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
18. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
19. "Sewer" means a pipe or conduit for carrying sewage.
20. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
21. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
22. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 PUBLIC WORKS DIRECTOR'S DUTIES.** The Public Works Director shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.



3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Public Works Director.

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 ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within two hundred fifty (250) 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.

*(Ord. 2011-300 – Apr. 11 Supp.)*

*(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 Public Works Director 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 Public Works Director 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. Failure to comply with request to enter and inspect property shall result in a municipal infraction being filed against the owner of record of the property and legal action may be applicable.

**95.08 USE OF EASEMENTS.** The Public Works Director 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.

**95.10 CHEMICAL TOILETS.**

1. Prohibited. No person shall erect, install or maintain or cause to be erected, installed or maintained any portable chemical toilet on either public or private property without first obtaining a written permit to do so from the Public Works Director.
2. Application for Permit. Any person requesting a permit to erect or install a chemical toilet shall submit an application, along with the payment of a permit fee in the amount of ten dollars (\$10.00), to the Public Works Director. Such application shall state the proposed location of such toilet, the period of time such toilet will be used, and the circumstances which require installation. No permit shall be issued unless the Public Works Director finds that the erection or installation of such chemical toilet is necessary to allow the applicant to comply with Federal, State or local labor or occupational safety regulations or for the purpose of providing temporary facilities for carnivals, bazaars, fairs, or other civic celebrations sponsored by a bona fide civic group, service club or merchants group. Any permit granted

pursuant to the provisions of this section shall be granted only for a period of time sufficient to allow compliance with any Federal, State or local labor or occupational safety regulation or for the period of time during which any civic celebration takes place.

3. Removal. Any chemical toilet installed pursuant to this section shall be removed on or before the last day of the permit. The applicant shall be the responsible party for the removal of said chemical toilet and failure to remove the same shall constitute a misdemeanor.

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## CHAPTER 96

# BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Connection Charge  
96.03 Connection Requirements  
96.04 Sewer Tap

96.05 Inspection Required  
96.06 Property Owner's Responsibility  
96.07 Abatement of Violations

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

**96.02 CONNECTION CHARGE.** The person who makes the application shall pay a connection charge in the amount of nine hundred dollars (\$900.00), plus an additional charge of seventy-five dollars (\$75.00) for each unit in excess of one which is to be served by the connection, to reimburse the City for costs borne by the City in making sewer service available to the property served.<sup>†</sup>

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

**96.04 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "WYE" branch, if such branch is available at a suitable location. If no properly located "WYE" branch is available, a saddle "TEE" shall be installed at the location specified by the Public Works Director. 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 Public Works Director and in accordance with the Public Works Director's direction if such connection is approved.

**96.05 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*.

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<sup>†</sup> **EDITOR'S NOTE:** See also Chapter 100.

**96.06 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.

**96.07 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])*

## CHAPTER 97

# USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges - Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two

percent (2%) of the average sewage flow of the City, shall be subject to the review of the Public Works Director. Where necessary in the opinion of the Public Works Director, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Public Works Director 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 Public Works Director 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 Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Public Works Director 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 Public Works Director in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES - POWERS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director, 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 Public Works Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a 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 twenty-four (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 and in compliance with the Urban Design Standards and Urban Standard Specifications. Documentation must be provided to the City describing the location of the filled system.

*(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 20,000 square feet.

## CHAPTER 99

### SEWER SERVICE CHARGES

**99.01 Sewer Service Charges Required**

**99.02 Sewer Service**

**99.03 Special Rates**

**99.04 Irrigation Meters**

**99.05 Private Water Systems**

**99.06 Payment of Bills**

**99.07 Lien for Nonpayment**

**99.08 Special Agreements Permitted**

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

*(Code of Iowa, Sec. 384.84)*

**99.02 SEWER SERVICE.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

1. Service Availability Charge. A service availability charge of \$14.21 per month (minimum bill).
2. Usage Charge. A usage charge of \$5.36 per each 1,000 gallons of water used.

*(Ord. 2017-200 – Jan. 18 Supp.)*

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

*(Code of Iowa, Sec. 384.84)*

**99.04 IRRIGATION METERS.** Any customer of the City Water Utility may purchase from the City and install, at the customer's sole expense, a second water meter in accordance with City plans and specifications, which water meter shall be installed in such a fashion so as to measure water used outside of the dwelling unit, and which does not drain directly into the sanitary sewer system. If the irrigation meter becomes defective the City will repair the meter and the customer shall be liable for the cost of the repair. The number of gallons measured by such meter shall not be used in determining the sewer rates herein set out.

**99.05 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)*

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

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

*(Code of Iowa, Sec. 384.84)*

**99.08 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

## CHAPTER 100

# SEWER CONNECTION FEES

100.01 Connection Fees Required  
100.02 East Sanitary Sewer District  
100.03 West Sanitary Sewer District

100.04 Establishment of Sewer Districts  
100.05 East Southside Drive Sewer Connection District

**100.01 CONNECTION FEES REQUIRED.** In addition to the sewer connection charge established and required under Section 96.02 of this Code of Ordinances, a sewer connection fee shall be collected in certain sanitary sewer districts in accordance with the provisions of this chapter at the time of the issuance of the permit for the connection to the public sanitary sewer by properties located within such district.

### 100.02 EAST SANITARY SEWER DISTRICT.

1. Description. The provisions of this section apply to the East Sanitary Sewer District, which consists of the following described real estate:

*Beginning at the S ¼ corner of Section 36, Township 81 North Range 25 West of the 5th P.M.; thence easterly along the south line of said Section 36 to the SW corner of the South 374 feet of the East 60 acres thereof; thence northerly to the NW corner of the South 374 feet of the East 60 acres thereof, thence easterly to the NE corner of the South 374 feet of the East 60 acres thereof; thence along the east line of said Section 36 to a point 476.78 feet north of the SW corner of Section 31, Township 81 North, Range 24 West; thence easterly parallel with the south line of said Section 31, 595.54 feet; thence southerly parallel with the west line of said Section 31, 476.78 feet; thence easterly along the south line of said Section 31, 60.0 feet; thence northerly parallel with the west line of said Section 31, 648.25 feet; thence right 44 degrees 01 minutes 03 seconds to the previous course, 908.24 feet; thence left 43 degrees 33 minutes 33 seconds to the previous course, 1343.85 feet to a point on the north line of the SW¼ of said Section 31; thence westerly along said north line, 1297.5 feet to the W ¼ corner of said Section 31; thence continuing westerly along the north line of the South ½ of Section 36, Township 81 North, Range 25 West to the W ¼ corner of said Section 36; thence continuing westerly to a point on the north line of the SE¼ of said Section 35, 300 feet west of said east line; thence northerly perpendicular to said south line, 525 feet; thence southwesterly to a point on the west line of the SE ¼ of the NE ¼, 150 feet north of the southwest corner thereof; thence south to the southeast corner of lot 5, Section 35, Township 81 North, Range 25 West of the 5th P.M.; according to the Official Plat thereof as recorded in Plat Book B, pages 476 and 477 of the Records of Polk County, Iowa; thence west along the south line of said lot 5, 330 feet; thence north, 280 feet; thence northwesterly to the northeast corner of Lot 8 of said Official Plat; thence north along the east line of Lot 7 of said Official Plat of Section 35, a distance of 720 feet; thence east along the south line of Lot 2 of the Official Plat of Section 35, a distance of 240 feet; thence north to a point on the north line of Lot 2*

*of the Official Plat of Section 35, 240 feet east of the northwest corner of said Lot 2; thence east along the north line of said Lot 2, 120 feet; thence north perpendicular to the north line of said Lot 2, 160 feet; thence west parallel to the north line of said Lot 2, 360 feet; thence south perpendicular to the north line of said Lot 2, 160 feet; thence west along the north lot line of Lot 7 of said Official Plat of Section 35, to the northwest corner of said Lot 7; thence south along the west line of said Lot 7 to the northeast corner of Lot 10 of said Official Plat; thence west along the north line of Lots 10 and 12 of said Official Plat, to the northwest corner of lot 12; thence south along the west line of said Lot 12 to a point lying on the west line of said Lot 12, said point being the extension of the north line of Lot 14 of said Official Plat; thence west along the extension of the north line of said Lot 14, and along the north line of said Lot 14, to a point lying on the north line of said Lot 14, 280 feet east of the northwest corner of said Lot 14; thence south to a point lying on the north line of Lot 16 of said Official Plat, 280 feet east of the northwest corner of said Lot 16; thence southwesterly to a point lying 450 feet north and 225 feet east of the southwest corner of the SW ¼ of the NW ¼ of said Section 35; thence westerly, 225 feet to the west line of said Section 35; thence south along the west line of said Section 35, to a point lying 239 feet north of the north right-of-way line of Jester Park Drive (County Road V), said point also being on the north line of Chandler Heights an Official Plat; thence easterly along said north line and extension thereof to the centerline of Jester Park Drive (County Road V); thence northeasterly along said centerline to the centerline of NW Madrid Drive; thence southeasterly along said centerline to a point on the south line of said Section 35; thence continuing southeasterly along the centerline of NW Madrid Drive (Broadway) to the centerline of Forest Street; thence northeasterly along the extension of said centerline 247.5 feet; thence southeasterly 247.5 feet perpendicularly distant from and parallel to the centerline of Broadway to a point on the north line of Gemricher Acres, an Official Plat; thence easterly along said plat line to the SW corner of Outlot "X" of said Gemricher Acres; thence northerly along said plat line to the NW corner of Outlot "X" of said Gemricher Acres; thence southeasterly along said plat line and extension thereof along the northeasterly line of Blocks 3 and 4, Original Town to the centerline of Third Street; thence southwesterly to the extension of the centerline of the vacated Northwest-Southeast alley of Block 2, Original Town; thence southeasterly along said centerline to the centerline of the vacated Northeast-Southwest alley of Block 2, Original Town; thence southwesterly along said centerline to the centerline of Walnut Street; thence southeasterly along said centerline to the centerline of First Street; thence southwesterly along said centerline to a point 132 feet northeast of the northeasterly right-of-way line of Broadway; thence southeasterly parallel with and 132 feet perpendicularly distant from said northeasterly right-of-way line of Broadway to a point 500 feet perpendicularly distant from the east line of the NW ¼ of Section 1, Township 80 North, Range 25 West; thence southerly parallel to and 500 feet perpendicularly distant from said east line of the NW¼ of Section 1 to a point on the south line of said*



*NW<sup>1</sup>/<sub>4</sub>; thence continuing southerly parallel to and 500 feet perpendicularly distant from the east line of the SW<sup>1</sup>/<sub>4</sub> of said Section 1, 1000 feet; thence easterly parallel to the north line of said SW <sup>1</sup>/<sub>4</sub> of Section 1 to the east line thereof; thence northerly along said east line of the SW<sup>1</sup>/<sub>4</sub> of Section 1 to the center of said Section 1; thence continuing northerly along the east line of the NW<sup>1</sup>/<sub>4</sub> of said Section 1 to the point of beginning.*

2. *(Repealed by Ord. 2009-800 – Dec. 09 Supp.)*
3. *(Repealed by Ord. 2009-800 – Dec. 09 Supp.)*
4. *(Repealed by Ord. 2009-800 – Dec. 09 Supp.)*
5. Sewer Capacity. The trunk line sewer constructed in the East Sanitary Sewer District is designed to accommodate a future average density of seven (7) dwelling units per acre. The maximum density permitted for any specific parcel of land shall be determined by multiplying the total acres owned by the applicant within the parcel by the number seven (7). When determined, this number shall constitute the maximum number of dwelling units which shall be permitted within such parcel. No connection permits shall be issued to serve a density in excess of that which is permitted under the provisions of this section.
6. Determination of Parcel Size. Any person making application for a sewer connection permit within the East Sanitary Sewer District shall provide the City with the following information:
  - A. The legal description of the entire parcel owned by the applicant, hereafter referred to as the “original parcel;”
  - B. The name of the titleholder;
  - C. The number of acres in said parcel;
  - D. The dimensions of said parcel; and
  - E. The number of existing dwelling units within such parcel.

Upon receipt of such application, the Engineer shall determine the maximum number of dwelling units permissible within such original parcel, under the provisions of subsection 5 of this section. Upon receipt of each subsequent application, the Engineer shall reduce the number of allowable connections by the number of connections previously permitted in such original parcel.

7. Integrity of Parcel Size. The size and average density per parcel of land as provided in subsection 5 shall be fixed as of the date of the original application for a sewer permit. A copy of the original parcel description; size and dimension of such parcel; and the number of connections previously permitted shall be kept on file in the office of the City Clerk and Engineer and shall be made available for public inspection during regular business hours. No conveyance or assignment of any part of the original parcel shall serve to alter or increase the maximum number of connections which may be permitted within such original parcel. Provided, in the event such parcel is subdivided, the titleholder may, through agreement with the purchaser, reserve to himself or herself a greater or lesser density by restricting or increasing the allowable density of the property to be conveyed. No such agreement shall increase the average number of units allowed under subsection 5 for such original parcel. Any such agreement must be in writing and recorded as a covenant running with the land.

A copy of any such agreement, showing its recordation, shall be filed with the Clerk and Engineer and shall be kept on file in their respective offices. In the absence of such an agreement, the allowable sewer connections remaining for such original parcel shall be allocated to any owner of any part of such parcel who shall first request the same.

**100.03 WEST SANITARY SEWER DISTRICT.** (*Repealed by Ord. 2010-800 – May 10 Supp.*)

**100.04 ESTABLISHMENT OF SEWER DISTRICTS.**

1. Central Sanitary Sewer District. The Central Sanitary Sewer District consists of the following described real estate:

*Beginning at the South ¼ corner of Section 35, Township 81 North, Range 25 West of the 5th P.M., City of Polk City, Polk County, Iowa, said point also being the northwest corner of Forest Heights Plat No. 3, an Official Plat to the City of Polk City; thence west, along the south line of said Section 35, 291.64 feet; thence northeasterly along the westerly line of the North Polk Community School District Property, 750.99 feet to the centerline of N.W. Madrid Drive (Broadway); thence southeasterly along said centerline to a point on the south line of said Section 35; thence continuing southeasterly along the centerline of N.W. Madrid Drive to the centerline of Forest Street; thence northeasterly along the extension of said centerline 247.5 feet; thence southeasterly along a line being 247.5 feet perpendicularly distant from and parallel with the centerline of Broadway to a point on the north line of Gemricher Acres an Official Plat; thence easterly along said plat line to the southwest corner of Outlot "X" of said Gemricher Acres; thence northerly along said plat line to the northwest corner of Outlot "X" of said Gemricher Acres; thence southeasterly along said plat line and extension thereof and along the northeasterly line of Blocks 3 and 4, Original Town to the centerline of Third Street; thence southwesterly along said centerline to the extension of the centerline of the vacated northwest-southeast alley of Block 2, Original Town; thence southeasterly along said centerline to the centerline of the vacated northeast-southwest alley of Block 2, Original Town; thence southwesterly along said centerline to the centerline of Walnut Street; thence southeasterly along said centerline to the centerline of First Street; thence southwesterly along said centerline to a point 132 feet northeast of the northeasterly right-of-way line of Broadway; thence southeasterly along a line being parallel with and 132 feet perpendicularly distant from said northeasterly right-of-way line of Broadway to a point 500 feet perpendicularly distant from the east line of the NW¼ of Section 1, Township 80 North, Range 25 West; thence southerly along a line being parallel with and 500 feet perpendicularly distant from said east line of the NW¼ of Section 1 to a point on the south line of said NW¼; thence continuing southerly parallel with and 500 feet perpendicularly distant from the east line of the SW¼ of said Section 1, 1000 feet; thence northwesterly to the southerly corner of Des Moines' Addition to Polk City; thence northwesterly along the southwesterly line of said Des Moines Addition and extension thereof*

*to the north line of the SW<sup>1</sup>/<sub>4</sub> of said Section 1; thence west along said north line to a point being 236.6 feet east of the west line of said Section 1; thence south parallel to and 236.6 feet perpendicularly distant from said west line of Section 1, 130.3 feet; thence west 27.6 feet; thence south 209 feet; thence west 209 feet to the west line of said Section 1, said point being 339.3 feet south of the West <sup>1</sup>/<sub>4</sub> corner of said Section 1; thence north along said west line of Section 1, 70.6 feet; thence west 450 feet to a point being 268.7 feet south of the north line of the SE<sup>1</sup>/<sub>4</sub> of Section 2, Township 80 North, Range 25 West; thence north 78.7 feet to the southeast corner of Lot 1, Southwest Gate Estates Plat 1, An Official Plat; thence west along the south line of said Southwest Gate Estates Plat 1, 751.2 feet to the west line of Tyler Street; thence north along said west line of Tyler Street, 130 feet to the south right-of-way of Davis Street; thence west to the west right-of-way of Roosevelt Street; thence north along the said west line of Roosevelt Street to the southeast corner of Lot 23, Lakeview Acres Plat 1, an Official Plat; thence northwesterly to the southwest corner of said Lot 23; thence north to the northwest corner of Lot 22 said Lakeview Acres Plat 1; thence west to the southwest corner of Lot 20 said Lakeview Acres Plat 1, thence northwesterly to the southwesterly corner of Lot 16 said Lakeview Acres Plat 1; thence northwesterly to the southwest corner of Lot 37 Lakeview Acres Plat 2, an Official Plat; thence west to the southwest corner of said Lakeview Acres Plat 2; thence north to the northwest corner of said Lakeview Acres Plat 2; thence east to the southwest corner of Forest Heights Plat 4, an Official Plat; thence north to the southeast corner of Lot 27 said Forest Heights Plat 4; thence west to the southwest corner of Lot 23 said Forest Heights Plat 4; thence north to the northwest corner of Lot 18, Forest Heights Plat 3, an Official Plat, said point being the point of beginning.*

2. Independent Sanitary Sewer District. The Independent Sanitary Sewer District consists of the following described real estate:

*Beginning at the SW corner of Section 35, Township 81 North, Range 25 West of the 5th P.M., City of Polk City, Polk County, Iowa; thence east along the south line of said Section 35, 1071.35 feet; thence north 972.19 feet to the southerly right-of-way of NW Jester Park Drive; thence westerly to a point on the west line of said Section 35, said point being 239 feet north of the northerly right-of-way line of said NW Jester Park Drive; thence westerly 108 feet; thence southwesterly, 292 feet; thence southerly to the northerly right-of-way line of said NW Jester Park Drive; thence northeasterly; 308 feet to said west line of Section 35; thence south along said west line of Section 35 to the point of beginning.*

#### **100.05 EAST SOUTHSIDE DRIVE SEWER CONNECTION DISTRICT.**

1. For the purposes of this section the following terms have the following meanings:

- A. “East Southside Drive Sewer Project” means the sanitary sewer installed along East Southside Drive as shown on “Exhibit A”, said exhibit to be placed on file in the office of the City Clerk.
- B. “East Southside Drive Sewer Connection District” means and includes only the following described real estate and as shown on “Exhibit B”, said exhibit to be placed on file in the office of the City Clerk.
2. Connections shall be made to the East Southside Drive Sewer Project for the purpose of providing sanitary sewer service to any property only on the conditions set forth in subsection 3. below.
3. The right to make connections to the East Southside Drive Sewer Project shall be subject to the following conditions:
- A. A connection fee in the amount of \$12,470.00 shall be paid in conjunction with the building permit for each of the following new residences:
- Scott Cherry and Heather Handley-Cherry; 1412 E. Southside Drive, Polk City Iowa; and
- Doug Layton; 1420 E. Southside Drive, Polk City Iowa
- B. The proposed schedule of future connection fees, to be paid at the time of final platting in the case of new development or at the time of connection in the case of existing homes, is as follows:
- Lot 2, Red Cedar Prairie Plat 1 (existing home); connection fee = \$12,470.00
- Lot 3, Red Cedar Prairie Plat 1 (existing home); connection fee = \$12,470.00
- Lot 3 Red Cedar Prairie Plat 1 (new development); connection fee = \$99,760.00
- C. Such connection fee is in lieu of, and not in addition to, the fee set forth in Section 96.02.
- D. In addition to the fee set forth in (3)(A) and (B) above, the owner of the parcel to be serviced by the connection that is not within the corporate limits at that time shall file with the City an Application for Annexation, said application to be in a form as provided by the City and subsequently acted upon by the City Council.
- E. The owner of any parcel making a connection to the East Southside Drive Sewer Project, as authorized and permitted hereunder, shall be solely responsible for the cost of making such connection. Such connection shall be designed and installed in complete accordance with all applicable City ordinances, rules and regulations.
4. In the event any parcel within the East Southside Drive Connection District is developed for industrial or commercial use, or is subdivided and additional structures are permitted thereon, the owner or developer of the parcel shall be required to pay the fee for the right to make connections to the East Southside Drive Sewer or extensions of sewer mains connected to the East Southside Drive Sewer as necessary for their development. The fee will be paid prior to the connection, in the case of service

connections to industrial or commercial buildings, or prior to City approval of construction contracts for a sewer main extension to serve a subdivision.

5. Nothing in this section is intended to preclude future further extensions, by the City or upon approval of the City, of the East Southside Drive Sewer or sewer mains connected to the East Southside Drive Sewer for the purpose of providing sanitary sewer service to property other than established parcels included in the East Southside Drive Sewer Connection District. It is the intent of this section that, whether or not the East Southside Drive Sewer is hereafter further extended, no connections shall be made to that East Southside Drive Sewer Project or extension except as provided for hereunder.

6. All owners who propose to connect such properties directly or indirectly to the East Southside Drive Sewer Project, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements on property being subdivided for development shall constitute an application to the City for purposes of this section. The sewer connection fee shall be due and payable prior to the time such application is approved.

7. The sewer connection fee shall be in an amount equal to the maximum acre area of contiguous property, or fraction thereof, within the benefited district under common ownership which can be lawfully served through such proposed connection, multiplied by the per acre connection fee or such other fee basis as determined for the benefited district established in this chapter for the East Southside Drive Sewer Connection District. The connection fee shall be a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in this district shall be the rate not exceeding the rate of interest applicable to special assessments pursuant to the Iowa Code in effect on the date this connection fee is established.

*(Ord. 2013-700 – Jan. 14 Supp.)*

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**CHAPTER 101**

**REGULATION OF INDUSTRIAL WASTEWATER,  
COMMERCIAL WASTEWATER AND HAULED WASTE**

**EDITOR'S NOTE**

The Regulation of Industrial Wastewater, Commercial Wastewater and Hauled Waste, adopted February 27, 2012, by Ordinance No. 2012-100, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect.

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## CHAPTER 105

# SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.09 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.10 Waste Storage Containers
105.05 Open Burning Restricted	105.11 Prohibited Practices
105.06 Separation of Yard Waste Required	105.12 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[2])*
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.  
*(IAC, 567-100.2)*
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.  
*(IAC, 567-20.2[455B])*
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.  
*(Code of Iowa, Sec. 455B.361[1])*
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.  
*(IAC, 567-100.2)*

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

*(IAC, 567-20.2[455B])*

10. “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)*

11. “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)*

12. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

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

13. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

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

*(Code of Iowa, Ch. 657)*

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

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*. This section applies to the burning of yard waste that has been removed from and grown on the property. Yard waste is defined as grass clippings, leaves, garden waste, pruning, weeds and brush and tree branches. Any official ban on burning issued by the Fire Chief or by Polk County shall supersede this provision. The following open burning shall be allowed subject to any adopted policy of the City Council:

*(Ord. 2010-1400 – May 10 Supp.)*

1. Burning of landscape waste, prairie grass or other waste within an agricultural zone, or within other areas with unusual circumstances to be determined at the discretion of the Fire Chief, provided that a permit has been approved by the Fire

Chief. Burning is not allowed within 250 feet of a residential structure. Burning is subject to all policies established by the City Council.

2. Burning of recreational fires within a fire pit or other protective structure.
3. In the event of a natural disaster, burning as approved by the Fire Chief.
4. The Fire Chief is further authorized to permit an open fire for the following purposes and subject to the provisions set forth in this subsection:
  - A. City crews operating under the authority of the department of public services.
  - B. The instruction of public employees in methods of fighting fires.
  - C. On private property used for industrial purposes for the instruction of employees in the methods of fighting fires.
  - D. For public gatherings under the legitimate sponsorship of civic, fraternal, religious, educational or similar organizations.
  - E. Fires set for the purpose of a bonafide training of public or industrial employees in fire fighting methods, provided the Fire Chief received a written request at least one week before such action commences and is in compliance with the rules established by the State Department of Natural Resources (DNR).  
(*Ord. 2007-900 – Dec. 07 Supp.*)
5. All permits for an open fire shall be filed with the Fire Chief two weeks prior to the planned date of the fire.  
(*Ord. 2007-2300 – Dec. 07 Supp.*)

Any person who commits an act prohibited by Section 105.05 shall be guilty of a misdemeanor punishable by fine as provided in Section 1.14 of this Code or shall be deemed to have committed a municipal infraction punishable by a civil penalty as provided in Chapter 3 of this Code. The first offense within a calendar year shall be deemed the first offense punishable by a civil penalty not to exceed \$50. The second and each subsequent offense within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed \$100. The Fire Chief or his or her designated representative or any police officer is authorized to issue a civil citation to anyone violating this section indicating such person is in violation of this section and is subject to the penalties provided for in this section.

(*Ord. 2010-500 – May 10 Supp.*)

**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 acceptable containers and set out for collection. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

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

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

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

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

*(IAC, 567-100.2)*

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

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

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

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb 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 twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

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

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

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

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

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

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

**105.12 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Metro Solid Waste Agency 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** Collector's Permit

**106.01 COLLECTION SERVICE.** The collection of solid waste within the City shall be by private contract with collectors.

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

*(IAC, 567-104.9[455B])*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request.

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

**106.07 COLLECTOR'S PERMIT.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual permit in accordance with the following:

1. Application. Application for a solid waste collector's permit shall be made to the Clerk and provide the following:
  - A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.
  - B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

- C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.
- D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. Insurance. No collector's permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:
- |                  |                             |
|------------------|-----------------------------|
| Bodily Injury:   | – \$100,000 per person.     |
|                  | – \$300,000 per occurrence. |
| Property Damage: | – \$ 50,000.                |
- Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.
3. Permit Fee. A permit fee in the amount of sixty-five dollars (\$65.00) shall accompany the application. In the event the requested permit is not granted, the fee paid shall be refunded to the applicant.
4. Permit Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested permit shall be issued to be effective for a period of one year from the date approved.
5. Permit Renewal. An annual permit may be renewed simply upon payment of the required fee, and receipt of current public liability insurance policy carried by the applicant in conformance with subsection 2 of this section, and provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.
6. Permit Not Transferable. No permit authorized by this chapter may be transferred to another person.
7. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.
8. Grading or Excavation Excepted. No permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

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## CHAPTER 110

# NATURAL GAS FRANCHISE

110.01 Grant of Franchise	110.09 Information
110.02 State Code Restrictions and Limitations	110.10 Maintain Facilities
110.03 Construction and Maintenance	110.11 Quantity and Quality
110.04 Relocation of Installations	110.12 Police Regulations
110.05 Excavations	110.13 Franchise Fee
110.06 Utility Easements	110.14 Plans and Permits
110.07 Relocation Not Required	110.15 Forfeiture and Termination
110.08 Indemnification	

**110.01 GRANT OF FRANCHISE.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Polk City, Iowa, hereinafter called the “City,” a gas distribution system, to furnish natural gas along, under and upon the streets, rights of way, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance<sup>†</sup>, provided, however, that either the City or the Company may, during the first ninety (90) days following the tenth (10<sup>th</sup>) and fifteenth (15<sup>th</sup>) anniversaries of the effective date of the franchise, provide written notice to the other party of its desire to amend the franchise. The parties shall negotiate these amendments in good faith for a period of up to ninety (90) days following receipt of notice. If, at the conclusion of the negotiation period, the City determines in good faith that the franchise, if continued without amendment, will have a material or significant adverse impact on the City or the Company’s electric customers located within the corporate limits of the City, the City may terminate the franchise. The City shall have the burden to objectively demonstrate the material or significant adverse impact. Failure to amend the franchise at the first option does not render invalid the City’s second option to amend the franchise.

**110.02 STATE CODE RESTRICTIONS AND LIMITATIONS.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2013, or as subsequently amended or changed.

**110.03 CONSTRUCTION AND MAINTENANCE.** The Company shall furnish reasonably, adequate and efficient gas service to the residents of the City and shall maintain its systems in reasonable repair and working order and provide adequate facilities for such maintenance. The Company’s plant and equipment, including all transmission lines and other distribution facilities, shall be installed in accordance with good utility practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with the rules of the Iowa Utilities Board or its successor, and the International Fuel Gas Code so as not to endanger or interfere with the lives of persons, or to

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 2014-500, adopting a natural gas franchise for the City, was passed and adopted on August 11, 2014.

unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance, and operation of the gas system shall be in accordance with all applicable laws, regulations and codes of the State and all applicable ordinances, regulations and codes of the City. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located as to cause minimum interference with the properties of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. All said structures, lines and equipment shall be placed so as not to interfere with the construction of any water pipes, drain or sewer, which have been or may hereafter be located by authority of the City.

**110.04 RELOCATION OF INSTALLATIONS.** The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation. The City shall not require the Company to relocate facilities for a project that is intended to benefit a private party.

**110.05 EXCAVATIONS.** In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws. With any new construction or relocation projects, the Company agrees that within 14 days of the completion of the construction, all restorations will be made, or the Company hereby acknowledges the right of the City to perform these restorations and charge the Company for the same. During such 14-day period, the Company may ask the City to extend the 14-day period and the Company and the City shall negotiate a reasonable time for conclusion of the work.

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

**110.07 RELOCATION NOT REQUIRED.** The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been

relocated at Company expense at the direction of the City at any time during the previous five (5) years.

**110.08 INDEMNIFICATION.** The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents. The Company shall purchase and maintain insurance to protect the City throughout the duration of the franchise. Coverage may be provided under a program of self-insurance. The Company's indemnification obligations under the franchise shall survive the expiration, cancellation, or termination of the franchise.

**110.09 INFORMATION.** Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way, including documents, maps and other information in paper or electronic or other forms ("Information.") The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Therefore, the City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by state or federal law on other grounds and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time.

**110.10 MAINTAIN FACILITIES.** The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

**110.11 QUANTITY AND QUALITY.** During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

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

**110.13 FRANCHISE FEE.** The City reserves the right to impose a franchise fee on the gross revenue derived by the company from transmission, distribution, delivery or sale of natural gas to customers in the City. The fee shall only be imposed following a public hearing, regarding the adoption of an ordinance specifically authorizing a franchise fee.

**110.14 PLANS AND PERMITS.** All non-emergency installation, replacement or upgrade of pipes, plants, equipment and distribution facilities with any utility system shall require

submission of detailed plans to the city, clearly indicating proposed work, and all applicable city permits shall be approved by the city before proposed utility work commences.

**110.15 FORFEITURE AND TERMINATION.** The violation of any material portion of the franchise by the Company, or its failure to perform any of the provisions of the franchise, may be cause for forfeiture of the franchise and the termination of all rights under this chapter. If the City determines there to be a default under the franchise, it may provide a written notice to the Company describing the default, stating whether a forfeiture and termination of the franchise will be sought after the cure period, and proposing a reasonable time to cure the default, which shall be not less than sixty (60) days. Company may respond to such notice, proposing a different time to accomplish the cure of the default. If Company has not cured the default within the agreed-upon cure period and any extension thereto, the City may proceed to terminate the franchise agreement and the same shall be deemed forfeited by the Company as provided above. The franchise shall apply and bind the City and the Company, their successors and assigns, provided that any assignment by the Company shall be subject to the approval of the Council by resolution, which shall not be unreasonably withheld, except that no consent shall be required for any assignment or transfer by merger, consolidation or reorganization. The City shall have sixty (60) days after the effective date of the assignment to adopt the resolution. If the City fails to adopt a resolution affirming or rejecting the assignment during the 60-day period, the assignment shall be deemed approved. The Company shall provide notice to the City in the event of an assignment of the franchise.

**CHAPTER 111**  
**MIDAMERICAN ENERGY COMPANY**  
**ELECTRIC FRANCHISE**

<b>111.01 Grant of Franchise</b>	<b>111.09 Indemnification</b>
<b>111.02 State Code Restrictions and Limitations</b>	<b>111.10 Information</b>
<b>111.03 Construction and Maintenance</b>	<b>111.11 Maintain Facilities</b>
<b>111.04 Trees</b>	<b>111.12 Quantity and Quality</b>
<b>111.05 Relocation of Installations</b>	<b>111.13 Franchise Fee</b>
<b>111.06 Excavations</b>	<b>111.14 Plans and Permits</b>
<b>111.07 Utility Easements</b>	<b>111.15 Forfeiture and Termination</b>
<b>111.08 Relocation Not Required</b>	<b>111.16 Assignment</b>

**111.01 GRANT OF FRANCHISE.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Polk City, Iowa, hereinafter called the “City,” a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, rights of way, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance<sup>†</sup>, provided, however, that either the City or the Company may, during the first ninety (90) days following the tenth (10<sup>th</sup>) and fifteenth (15<sup>th</sup>) anniversaries of the effective date of the franchise, provide written notice to the other party of its desire to amend the franchise. The parties shall negotiate these amendments in good faith for a period of up to ninety (90) days following receipt of notice. If, at the conclusion of the negotiation period, the City determines in good faith that the franchise, if continued without amendment, will have a material or significant adverse impact on the City or the Company’s electric customers located within the corporate limits of the City, the City may terminate the franchise. The City shall have the burden to objectively demonstrate the material or significant adverse impact. Failure to amend the franchise at the first option does not render invalid the City’s second option to amend the franchise.

**111.02 STATE CODE RESTRICTIONS AND LIMITATIONS.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2013 or as subsequently amended or changed.

**111.03 CONSTRUCTION AND MAINTENANCE.** The Company shall furnish reasonably adequate and efficient electric service to the residents of the City and shall maintain its systems in reasonable repair and working order and provide adequate facilities for such maintenance. The Company’s plant and equipment, including all transmission lines and other distribution facilities, shall be installed in accordance with good utility practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 2014-400, adopting an electric franchise for the City, was passed and adopted on August 11, 2014.

and operated in accordance with the rules of the Iowa Utilities Board or its successor, and the National Electrical Safety Code, so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance, and operation of the electric system shall be in accordance with all applicable laws, regulations and codes of the State and all applicable ordinances, regulations and codes of the City. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located as to cause minimum reasonable interference with the properties of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed so as not to interfere with the construction of any water pipes, drain or sewer which have been or may hereafter be located by authority of the City.

**111.04 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 done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations.

**111.05 RELOCATION OF INSTALLATIONS.** The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation. The City shall not require the Company to relocate facilities for a project that is primarily intended to benefit a private party. With any new construction or relocation projects, the Company agrees that within 14 days of the completion of the construction, it shall complete all restorations. During such 14-day period, the Company may ask the City to extend that 14-day period and Company and City shall negotiate a reasonable time for conclusion of the work. If Company has not completed all restorations within the agreed-upon time, Company acknowledges the rights of the City to perform these restorations and charge Company for the same.

**111.06 EXCAVATIONS.** In making excavations in any streets, avenues, alleys, rights of way and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the condition as existed prior to the Company excavation. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with city, state or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

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

**111.08 RELOCATION NOT REQUIRED.** The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous five (5) years.

**111.09 INDEMNIFICATION.** The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents. The Company shall purchase and maintain insurance to protect the City and name the City throughout the duration of the franchise. Coverage may be provided under a program of self-insurance. The Company's indemnification obligations under the franchise shall survive the expiration, cancellation, or termination of the franchise.

**111.10 INFORMATION.** Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in city right of way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under state or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right of way which may constitute a trade secret or which may otherwise be protected from public disclosure by state or federal law. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time.

**111.11 MAINTAIN FACILITIES.** The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

**111.12 QUANTITY AND QUALITY.** During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

**111.13 FRANCHISE FEE.** The City reserves the right to impose a franchise fee on the gross revenue derived by the company from transmission, distribution, delivery or sale of electricity to customers in the City. The fee shall only be imposed following a public hearing, regarding the adoption of an ordinance specifically authorizing a franchise fee.

**111.14 PLANS AND PERMITS.** All non-emergency installation, replacement or upgrade of cables, wires and conduits in connection with any utility system shall require submission of detailed plans to the city, of detailed plans clearly indicating proposed work and all applicable city permits shall be approved by the city before proposed utility work commences. Company agrees to continue its policy of undergrounding facilities in city limits where undergrounding practices exist or in new construction areas. In city limit areas where existing overhead facilities are prevalent, the Company reserves the right to upgrade or replace existing equipment with overhead facilities, subject to negotiations with the City. Where possible, following the procedures and standards applicable to such developments, the parties will develop plans to facilitate the placing of overhead electric facilities underground in conjunction with city projects in the public rights of way. Any conversion of overhead electric distribution facilities to underground electric distribution facilities shall comply with the Iowa Utilities Board rules and regulations, Company tariffs applicable to city-required conversions of overhead facilities to underground facilities, the National Electric Code and the National Electric Safety Codes as adopted by the Iowa Utilities Board. The Company shall not be responsible for costs incurred by customers to convert or to upgrade customer wiring due to a change in the electrical distribution system. On the date of transfer from an overhead electric distribution system to an underground electric distribution system, as agreed to by the City and Company, the City shall be responsible to ensure that all structures receiving electrical service are capable, in compliance with the National Electric Code, of receiving service from an underground electric distribution system. The Company shall not be liable for expenses incurred by any customer resulting from rewiring or replacement of utilization equipment costs as a result of the inability of a customer to receive electricity from an underground electric distribution system.

**111.15 FORFEITURE AND TERMINATION.** The continuing violation of any material portion of the franchise by the Company, or its failure to perform any of the provisions of the franchise, may be cause for forfeiture of the franchise and the termination of all rights under this chapter. If the City determines there to be a default under the franchise, it may provide a written notice to the Company, describing the default, stating whether a forfeiture and termination of the franchise will be sought after the cure period, and proposing a reasonable time to sure the default, which shall not be less than sixty (60) days from the date of the written notice. Company may respond to such notice, agreeing to the proposed cure period or proposing a different time to accomplish the cure of the default. If Company has not cured the default within the agreed-upon cure period and any extensions thereto, the City may proceed to terminate the franchise agreement and the same shall be deemed forfeited by the Company as provided above.

**111.16 ASSIGNMENT.** The franchise shall apply and bind the City and the Company, their successors and assigns, provided that any assignment by the Company shall be subject to the approval of the Council by resolution, which shall not be unreasonably withheld, except that no consent shall be required for any assignment or transfer by merger, consolidation or reorganization. The City shall have sixty (60) days after the effective date of the assignment to adopt the resolution. If the City fails to adopt a resolution affirming or rejecting the assignment during the 60-day period, the assignment shall be deemed approved. The Company shall provide notice to the City in the event of an assignment of the franchise.



## CHAPTER 112

# MIDLAND POWER COOPERATIVE ELECTRIC FRANCHISE

112.01 Franchise Granted  
112.02 Terms and Conditions

112.03 Assignment of Franchise

**112.01 FRANCHISE GRANTED.** Midland Power Cooperative, an Iowa cooperative association, is hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter<sup>†</sup> to acquire, construct, operate and maintain in the City the necessary facilities for the production, distribution, transmission and sale of electricity for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes.

**112.02 TERMS AND CONDITIONS.** The Grantee shall be subject to the following terms and conditions during the term of the franchise granted hereunder:

1. **Service Requirements.** The Grantee shall furnish reasonable, adequate and efficient electric service to the residents of the City and shall maintain its system in reasonable repair and working order and provide adequate facilities for such maintenance. Nothing in this section shall require the Grantee to provide electric service unless the services requested are reasonably within its range of performance and there is a reasonable expectation that the consumption of electricity will warrant the necessary expenditure.
2. **Ownership, Installation and Maintenance of Service Facilities.** The Grantee's plant and equipment, including all street lights, transmission lines and other distribution facilities, shall be owned by the Grantee, installed in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance and operation of the electric system shall be in accordance with all applicable laws, regulations and codes of the State and application ordinances, regulations and codes of the City.
3. **Transmission and Distribution Facilities - General Location Requirements.** All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.
4. **Conditions for Use and Occupancy of City Rights-of-Way and Utility Easements.** The Grantee shall be allowed to use and occupy the City rights-of-way

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No 2003-1000, adopting an electric franchise, was passed and adopted on December 29, 2003.

for the emplacement of its equipment; provided, however, Grantee shall be required to use subdivision utility easements to the extent such easements provide for the construction and operation of electric equipment therein. Further provided, in such use and occupancy of City rights-of-way and subdivisions utility easements, Grantee shall be subject to all generally applicable City ordinances and obligations therein including, but not limited to, those provisions of this Code of Ordinances regulating the use and occupancy of such rights-of-way, pertaining to excavations and pertaining to streets and sidewalks, and further provided that Grantee shall not construct any plant or system equipment until Grantee has secured the necessary permits from the City, or other applicable governmental authorities. Grantee shall have the right to trim brush, remove obstructions and do all other things reasonably necessary to prevent interference with its use and occupancy of said rights of way and easements.

5. Grantee's Duty to Restore Ground Surface. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall at its own cost and expense and in a manner approved by the City Engineer, replace and restore all sod, paving, sidewalk, driveway or surface of any street or alley disturbed in as good a condition as before said work was commenced.

6. Alteration of Grade. If at any time the City elects to alter or change the grade of any street, alley or public way, and such alteration requires the relocation of Grantee's facilities located along, upon, across and under the streets, highways, avenues, alleys, bridges and public places of the City, the Grantee, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cable, underground conduits, manholes, or other distribution fixtures at its own expense.

7. Street Obstructions. Any opening or obstruction in the streets or other public ways made by the Grantee in the course of its operation, pursuant to the authority granted hereunder, shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights.

8. Mapping Data. Grantee shall provide to the City Engineer information indicating the horizontal and approximate vertical location, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in any right-of-way. Mapping data shall be provided with the specificity and in the format requested by the City Engineer for inclusion in the mapping system used by the City Engineer. Grantee shall submit complete and accurate mapping data for all of its equipment at the time any permit is sought. Within six (6) months of the acquisition, installation or construction of additional equipment or any relocation, abandonment or disuse of existing equipment, the Grantee shall supplement the mapping information required herein.

9. Insurance Requirements. The Grantee shall purchase and maintain insurance to protect the Grantee and the City throughout the duration of the franchise. Said insurance shall be provided by insurance companies approved by the insurance commissioner of the State of Iowa and having no less than an A.M. Best rating of "A-." All policies shall be written on a per-occurrence basis, not a claims-made basis, and in form and amounts and with companies satisfactory to the City. Certificates of insurance confirming required insurance coverage shall be submitted to the City prior to contract execution or commencement of work and/or services.

A. Worker's Compensation Insurance: The Grantee shall procure and maintain during the life of the franchise, Worker's Compensation Insurance,

including Employer's Liability Coverage, in accordance with all applicable statutes of the State of Iowa. The coverage limits shall include \$500,000 each accident for Bodily Injury by Accident, \$500,000 each accident for Bodily Injury by Disease, and \$500,000 policy limit for Bodily Injury by Disease.

B. Commercial General Liability Insurance: The Grantee shall procure and maintain during the life of the franchise, Commercial General Liability insurance on a per-occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit; Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (i) Contractual Liability, (ii) Premises and Operations, (iii) Products and Completed Operations, (iv) Independent Contractor's Coverage, (v) Personal and Advertising Injury, and (vi) Explosion, Collapse and Underground [XCU], where applicable. Coverage shall be no less comprehensive and no more restrictive than the coverage provided by a standard form Commercial General Liability Policy [ISO CG 00 0110 93] with standard exclusions. Any additional exclusions shall be clearly identified on the Certificate of Insurance and shall be subject to the review and approval of the City.

C. Automobile Liability Insurance: The Grantee shall procure and maintain during the life of this Franchise, Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit including Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Umbrella/Excess Insurance: The coverage specified in B and C above may be satisfied with a combination of primary and Umbrella/Excess Insurance. The Umbrella/Excess Insurance shall also be written on a per-occurrence basis and shall include the same endorsement as required of the primary policies.

E. Insurance for Other Losses: The Grantee shall assume, during the life of the franchise, full responsibility for all loss or damage from any cause whatsoever to any property brought onto City property that is owned or rented by the Grantee, or by any of the Grantee's employees, agents, subcontractors, suppliers or their employees, to the extent that such property is utilized in carrying out the provisions of the franchise, except to the extent caused by the City's acts or negligence.

F. Changes in Coverage, Limits, Endorsements and Terms. The City shall be notified of any changes in coverage, limits, endorsements and terms.

G. Subcontractors: The Grantee shall require that any of its agents and subcontractors who perform work and/or services pursuant to the provisions of the franchise meet the same insurance requirements as are required of the Grantee.

H. Proof of Insurance: The Grantee shall provide to and maintain on a current basis with the City Certificates of Insurance evidencing all required insurance coverage as provided in A through D above utilizing the latest version of the ACORD form. Any deductible or self-insured retention must be disclosed on the face of the Certificate of Insurance and must be accepted by the City.

10. Indemnification. To the fullest extent permitted by law, the Grantee agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City, by reason of personal injury, including bodily injury or death, and property damages, including loss of use thereof, which arises out of or is in any way connected or associated with the work and/or services provided by the Grantee pursuant to the provisions of the franchise, except to the extent caused by the City's acts or negligence. It is the intention of the parties that the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City shall not be liable or in any way responsible for injury, damage, liability, loss, or expense resulting to the Grantee, its officers, employees, subcontractors, and others affiliated with the Grantee due to accidents, mishaps, misconduct, negligence, or injuries either to person or property caused by the work and/or services performed by the Grantee under the franchise, except to the extent caused by the City's acts or negligence. The Grantee expressly agrees to pay the City for all damages caused to the City's premises resulting from the activities of the Grantee, its officers, employees, subcontractors, and others affiliated with the Grantee.

A. The indemnification obligations of Grantee are not limited in any way by the amount or type of damages or compensation payable by or for Grantee under Worker's Compensation, disability, or other employee benefit acts, acceptance of insurance certificates required under the franchise, or the terms, applicability, or limitations of any insurance held by Grantee.

B. Grantor does not, and shall not, waive any rights against Grantee which it may have by reasons of the indemnification provided for in this chapter, because of the acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this chapter.

C. The requirements of indemnification shall not be a waiver of any right that the City would have to assert defenses on its own behalf under State or Federal law.

D. The Grantee's indemnification obligations under this chapter shall survive the expiration, cancellation, or termination of the Franchise Agreement.

E. To the extent permitted by law, the Grantee hereby releases the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City, from any and all liability or responsibility to the Grantee or anyone claiming through or under the Grantee, for any loss or damage to property caused by fire or other casualty, except to the extent such fire or other casualty shall have been caused by the fault or negligence of the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City. This provision shall be applicable and in full force and effect only with respect to loss or damages occurring during the time of the Grantee's occupancy or use.

11. Electric Revenue Tax. If, during the term of the franchise, there shall be enacted by the Iowa General Assembly a valid taxing statute authorizing the City to collect a tax on the electric revenue received by Grantee from its customers in the

City, then if such tax is levied by the City, said Grantee will include, subject to the approval of the Iowa Utilities Board, such tax as a separate item on bills to its customers within the City, and remit the sums collected to the City under the terms and provisions of such enacted statute.

12. Termination of Franchise.

A. Grounds for Revocation. In addition to any other lawful remedies the City may have, it reserves the right to revoke the franchise and rescind all rights and privileges associated therewith in the event of a material breach of the franchise. A material breach or cause for revocation, by way of example, would include:

(1) If Grantee should default in the performance of any of its material obligations under the franchise and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City or such longer time as specified by the City.

(2) If the Grantee should fail to provide or maintain in full force and effect the insurance and indemnification coverage as required in this chapter.

(3) If a petition is filed by or against Grantee under the Bankruptcy Act, as amended, or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed.

(4) If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.

(5) If the Grantee makes an assignment for the benefit of creditors.

(6) To the extent an order or ruling has effect on the franchise, if the Grantee violates any order or ruling of the City, or any State or Federal regulatory body having jurisdiction over the Grantee, unless the Grantee is lawfully contesting the legality or applicability of such order or ruling and has received a stay from the appropriate forum.

(7) If the Grantee practices any fraud or deceit upon the subscribers, the City, or the general public.

(8) If Grantee misrepresented a material fact in the application for or negotiation of the franchise or in any other appearance before or document submitted to the City Council or to subscribers.

(9) If Grantee violates any material rule, order, regulation or determination of the City Council made pursuant to its police powers or any material provision of this chapter.

B. Procedure Prior to Revocation. The City shall give at least sixty (60) days' written notice to the Grantee citing the reasons alleged to constitute cause for revocation, if the reason is of a nature that can be cured, set a reasonable time in which the Grantee must remedy the cause. If, during the 60-day period (or such longer period as the City may set), the cause shall be cured to the satisfaction of the City, the City may declare the notice to be null and void. If the Grantee fails to remedy the cause within the time specified or

if the breach is of a nature that cannot be remedied, the City Council may, after public hearing and making a written finding of a material violation, revoke the franchise. In any event, before the franchise may be terminated, the Grantee shall be provided with an opportunity to be heard before the City Council.

C. Effect of Pending Litigation. Unless a stay is issued by a court of appropriate jurisdiction, pending litigation or any appeal to any regulatory body or court having jurisdiction over the Grantee shall not excuse the Grantee from the performance of its obligations under this chapter or other applicable laws. Failure of the Grantee to perform material obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.

D. Restoration of Public and Private Property. In removing its plants, structures and equipment, the Grantee shall refill at its own expense, any excavation made by it and shall leave all public ways and places and private property in as good condition as existed prior to Grantee's removal of its equipment and appliances. The City shall inspect and approve the condition of the public ways and public places. Liability insurance and the indemnity provided in this chapter shall continue in full force and effect during the period of removal.

E. Restoration by City; Reimbursement of Costs. If the Grantee fails to complete any work required by or any work required by other law or ordinance within the time established and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within thirty (30) days after receipt of any itemized list of such costs.

F. Lesser Sanctions. Nothing shall prohibit the City from imposing lesser sanctions or censures than revocation.

**112.03 ASSIGNMENT OF FRANCHISE.** Grantee shall not voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer, lease, sublet or otherwise dispose of, in whole or in part, the franchise and/or electric system or any of the rights or privileges granted by the franchise, to any entity not controlled by Grantee without the prior written consent of the City, and then only upon such terms and conditions as may be lawfully prescribed by the City, which consent shall not be unreasonably denied or delayed provided that any transferee shall agree to accept all of Grantee's obligations under this chapter. Any attempt to sell, assign, transfer, lease, sublet or otherwise dispose of all or any part of the franchise and/or electric system or Grantee's rights therein without the prior written consent of the City shall be null and void and shall be grounds for termination of the franchise.

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## CHAPTER 113

# TELEPHONE FRANCHISE

113.01 Franchise Granted

113.02 Service Requirements

113.03 Installation and Maintenance of Service Facilities

113.04 Transmission and Distribution Facilities

113.05 Grantee's Duty to Restore Ground Surface

113.06 Tree Trimming

113.07 Street Obstructions

113.08 Indemnification

**113.01 FRANCHISE GRANTED.** Northwestern Bell Telephone Company, a corporation, its successors and assigns are hereby granted and vested with the nonexclusive right, franchise and privilege, for a period of twenty-five (25) years<sup>†</sup> from the effective date of the ordinance codified in this chapter, to acquire, construct, operate and maintain in the City the necessary facilities for the production, and sale of telephone services for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes. The Northwestern Bell Telephone Company, hereinafter referred to as "Grantee," shall be subject to the terms and conditions contained in this chapter during the term of the franchise granted hereunder.

**113.02 SERVICE REQUIREMENTS.** The Grantee shall furnish reasonable, adequate and efficient telephone service to the residents of the City and shall maintain its system in reasonable repair and working order and provide equal facilities to the public and all connecting lines for the transmission of communications in accordance with the laws of the State of Iowa and the Rules and Regulation of the Commerce Commission.

**113.03 INSTALLATION AND MAINTENANCE OF SERVICE FACILITIES.** The Grantee's plant and equipment, including all transmission lines, whether overhead or underground, and other distribution facilities shall be installed in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance and operation of the transmission system shall be in accordance with all applicable laws, regulations and codes of the State and applicable ordinances, regulations and codes of the City. The Grantee shall restore all property of the City and of the inhabitants thereof to its original condition after the installation of either overhead or underground transmission lines.

**113.04 TRANSMISSION AND DISTRIBUTION FACILITIES.** All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. Grantee shall, upon ninety (90) days' written notice, remove or relocate said lines

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 83-100, adopting a telephone franchise for the City, was passed and adopted on March 14, 1983.

if the right-of-way upon which said lines are located is altered or changed for any reason. Such removal or relocation shall be undertaken at the sole expense of Grantee.

**113.05 GRANTEE'S DUTY TO RESTORE GROUND SURFACE.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall at its own cost and expense and in a manner approved by the City Engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed in as good a condition as before said work was commenced.

**113.06 TREE TRIMMING.** The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent branches of such trees from coming in contact with the transmission of distribution lines of the Grantee, all trimming to be done at the expense of the Grantee.

**113.07 STREET OBSTRUCTIONS.** Any opening or obstruction in the streets or other public ways made by the Grantee in the course of its operations, pursuant to the authority granted hereunder, shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the grounds of which during periods of dusk and darkness shall be clearly designated by warning lights.

**113.08 INDEMNIFICATION.** In the conduct of its operation pursuant to this chapter, the Grantee shall at all times use care and diligence. The Grantee shall further defend, indemnify, protect and save harmless the City and its political subdivisions from and against any and all liability, losses and physical damage to property and bodily injury or death to any persons from any cause of action which any person may have or claim to have by reason of any act, conduct, negligence, fault or misconduct on the part of the Grantee, its agents, officers, servants or employees.



## CHAPTER 114

# CABLE TELEVISION FRANCHISE

### 114.01 Grant of Franchise

### 114.02 Assignment or Transfer

**114.01 GRANT OF FRANCHISE.** A nonexclusive right is hereby granted to Heritage Cablevision, Inc. (hereinafter referred to as “Heritage”), its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of twenty-five (25) years<sup>†</sup>, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. To sell and supply audio and video communication service to persons within the City;
2. To use public property within the City;
3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

**114.02 ASSIGNMENT OR TRANSFER.** Heritage shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that Heritage shall have the right to assign the franchise to a corporation wholly owned by Heritage or to a limited partnership of which Heritage or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without prior consent of the City.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 81-117, adopting a cable television franchise for the City, was passed and adopted on July 13, 1981.

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## CHAPTER 115

# CABLE TELEVISION REGULATIONS

115.01	Definitions	115.21	Performance Standards
115.02	Use of Property	115.22	Channel Capacity and Performance
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**115.01 DEFINITIONS.** The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings ascribed to them in this section:

1. “Cable television system” means any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “FCC” means the Federal Communications Commission.
4. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. “Grantee” means Heritage Communications, Inc. d/b/a Heritage Cablevision, Inc., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” shall mean and include the Grantee, its officers, agents, employees, servants, and independent contractors.
6. “Property of the Grantee” means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.
7. “Public property” means all property, real, personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

**115.02 USE OF PROPERTY.** The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereinafter be consistent with generally accepted principles applicable to the operation of a cable television system, subject, however, to the following restrictions:

1. The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereinafter be applicable thereto.
2. The Grantee shall not use or occupy or permit public property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
  - A. Impair the owner's interest in or title thereto;
  - B. Impair any mortgage or lease as may now or hereafter be applicable thereto;
  - C. Adversely affect the then value or character thereof;
  - D. Cause or be likely to cause structural damage thereto, or any part thereof;
  - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
  - F. Create a public or private nuisance, cause any offensive or obnoxious vibration, noise, odor or undesirable effect or interference with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
  - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or.
  - H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

**115.03 TAXES.** The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

**115.04 INSURANCE.** The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall be not less than \$100,000 as to any one person, \$300,000 as to any one occurrence for injury or death to persons, and \$100,000 for damages to property, with so-called umbrella coverage of at least \$5,000,000.
2. Worker's Compensation Insurance as provided by the law of the State of Iowa as amended.
3. Automobile Insurance with limits of not less than \$100,000/\$300,000 of public liability coverage and automobile property damage insurance with a limit of

not less than \$100,000 covering all automotive equipment, with so-called umbrella coverage of at least \$5,000,000.

All of said insurance coverage shall provide a ten-day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

**115.05 REPAIRS.** During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as non-structural, shall be made promptly, as and when needed.

**115.06 HOLD HARMLESS.** During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever indemnifies the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the non-observance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

**115.07 ASSIGNMENT.** The Grantee shall not assign or transfer any right granted under this chapter to any other person, company, or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee, or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heritage Communications, Inc., is a general partner, without prior consent of the City.

**115.08 INSOLVENCY OF GRANTEE.** In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee, or other such officer shall not be discharged within sixty (60) days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

**115.09 DEFAULT OF GRANTEE.** In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within thirty (30) days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate

the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

**115.10 TERMINATION.** Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

**115.11 COMPLIANCE WITH APPLICABLE LAWS.** During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

**115.12 INSTALLATION AND MAINTENANCE OF PROPERTY TO THE GRANTEE.** During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

**115.13 INTERFERENCE.** The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the Grantee.

**115.14 INSTALLATION OF CABLES.** The Grantee shall have the right, privilege, and authority to lease, rent, or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises within the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses or franchises have both installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

**115.15 RESTORATION OF GROUND SURFACE.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good condition as before said work was commenced.

**115.16 ALTERATION OF GRADE.** In the event that, during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice to the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

**115.17 TEMPORARY REMOVAL OF CABLES.** The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or

lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

**115.18 TREE TRIMMING.** The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

**115.19 LINE EXTENSIONS.** It shall be the obligation of company to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, the Grantee shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification, where there is an average of fifty (50) homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

**115.20 SERVICE REQUIREMENTS.** During the term of the franchise, the Grantee shall furnish reasonable, adequate cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

**115.21 PERFORMANCE STANDARDS.** The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

**115.22 CHANNEL CAPACITY AND PERFORMANCE.** During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

**115.23 INSTALLATION AND MAINTENANCE OF TERMINALS IN CITY BUILDINGS AND SCHOOLS.** During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

**115.24 TELECAST OF EDUCATIONAL ACTIVITIES.** The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

**115.25 PROGRAM ALTERATION.** Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

**115.26 SUBSCRIBER RATES AND CHARGES.** Except as otherwise provided in the franchise, the Grantee shall have the right, privilege, and authority to charge the rates and charges fixed in this section to its subscribers for its services. Multi-user rates and charges may be negotiated between the Grantee and the subscriber, but in no event shall the multi-user rates and charges for any subscriber exceed the aggregate of rates and charges which would be charged to the multi-user if computed on the basis of single-user rates and charges.

**115.27 CHANGE OF SUBSCRIBER RATES AND CHARGES.**

1. Grantee's rates and charges presently in effect for installation, moving of equipment and for basic monthly cable television service are hereby approved by the City. A current schedule of rates will be kept on file with the Clerk.

2. For the purposes of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval of the City.

3. Grantee shall have the right to change the rates for basic monthly cable television service, provided any increase does not exceed the increase in the Consumer Price Index for the previous twelve months as determined by the Bureau of Labor Statistics. Should Grantee wish to increase rates beyond the Consumer Price Index increase, approval shall rest with the Council. Such approval will be given only if the Grantee proves that the increase will result in improved cable television service to the community or permit Grantee a fair rate of return on its investment.

4. Before approving an increase in excess of that permitted by subsection 3, the City shall hold a public hearing thereupon, and shall cause to be published for two consecutive weeks in a newspaper of general circulation in the City a public notice setting forth the proposed rates and charges and the date, time, and place of the public hearing. At such public hearing, any interested party shall have the right to give testimony and present evidence on the rates and charges proposed.

5. Before instituting an increase to or less than the Consumer Price Index increase, Grantee will furnish to the Council a copy of the new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than 30 days and not more than 60 days.

The Grantee shall pay all costs and expenses incurred by the City in connection with said application and said hearing.

**115.28 SERVICE RULES AND REGULATIONS.** The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.



**115.29 SERVICE AGREEMENTS.** The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

**115.30 PAYMENTS TO CITY.** The Grantee shall pay to the City one percent (1%) of its annual "basic monthly cable television service" revenue for the service rendered to customers located within the City. All payments as required by the Grantee to the City shall be made annually and shall be due forty-five (45) days after the close of the year.

**115.31 INJURY TO PROPERTY OF GRANTEE.** No person shall wrongfully or lawfully injure the property of the Grantee.

**115.32 INTERCEPTING SIGNALS OF GRANTEE.** No person shall receive or intercept any cable television signals originated by and transmitted through cable of Grantee without the consent of the Grantee.

**115.33 FILING REPORTS.** On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

**115.34 FILING OF MAPS AND PLATS.** On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

**115.35 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES.** The Grantee shall file with the City copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

**115.36 ACCESS.** The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

**115.37 DISCRIMINATION PROHIBITED.** The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

**115.38 OTHER BUSINESS ACTIVITIES PROHIBITED.** During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

**115.39 ARBITRATION.** Any controversy between the City and the Grantee regarding the rights, duties or liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceeding under the Section 115.10. Such arbitration shall be before three (3) disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State of Iowa.

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## CHAPTER 116

# REGULATION OF CABLE TELEVISION RATES

116.01 Authority

116.02 Rate Regulation Proceedings

116.03 Certification

116.04 Notice of Rate Change

116.05 Delegation of Power

**116.01 AUTHORITY.** The City has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. §§76.900 *et. seq.*, as they currently read and hereafter may be amended, which are herewith incorporated by reference.

**116.02 RATE REGULATION PROCEEDINGS.** Any rate regulation proceedings conducted hereunder shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the City or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by the City, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in Section 362.3 of the Code of Iowa and shall mail, by certified mail, to the Cable Operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.
2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the City is subject to review by the FCC.
3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The City may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may announce the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.
4. In the course of the rate regulation proceeding, the City may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The City may request proprietary information, provided that the City shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.

6. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by the City to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rate or proposed rate increase is reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.

9. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

10. The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

**116.03 CERTIFICATION.** The City shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the City shall notify the Cable Operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

**116.04 NOTICE OF RATE CHANGE.** With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

**116.05 DELEGATION OF POWER.** The City may delegate its powers to enforce this chapter to municipal employees or officers (the "cable official"). The cable official will have the authority to:

1. Administer oaths and affirmations;

2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this chapter;
7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
9. Take actions and make decisions or recommend decisions in conformity with this chapter.

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**CHAPTER 117**  
**CABLE TELEVISION**  
**CUSTOMER SERVICE STANDARDS**

117.01 Authority  
117.02 Definitions  
117.03 Standards

117.04 Violations; Notice; Hearing  
117.05 Penalties  
117.06 Enforcement

**117.01 AUTHORITY.** This chapter is adopted under, and pursuant to, the authority of the Cable Television Consumer Protection and Competition Act of 1992.

**117.02 DEFINITIONS.** As used in this chapter the following words and phrases have the following meanings:

1. "Basic cable rates" means the monthly charges for a subscription to the basic cable tier and the associated equipment.
2. "Basic cable tier" means a separately available service tier to which subscription is required for access to any other tier of service.
3. "Cable operator" means any person:
  - A. Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or
  - B. Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.
4. "Normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
5. "Normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
6. "Service interruption" means the loss of picture or sound on one or more cable channels.

**117.03 STANDARDS.** All cable operators operating within the City shall comply with the following customer service standards:

1. Cable System Office Hours and Telephone Availability.
  - A. The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to subscribers 24 hours a day,

seven days a week. Trained company representatives will be available to respond to customer inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer times shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

C. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

D. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

E. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

2. Installations, Outages and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

A. Standard installation will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

B. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct the service problems the next business day after notification of the service problem.

C. Appointment scheduling alternatives for installations, service calls, and installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

D. An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

E. If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

3. Communications Between the Cable Operators and Cable Subscribers.

A. Notifications to Subscribers. The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request: (i)



products and services offered; (ii) prices and options for programming services and conditions of subscription to programming and other services; (iii) installation and service maintenance policies; (iv) instructions on how to use the cable service; (v) channel positions of programming carried on the system; and (vi) billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

B. Billing. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.

C. Refunds. Refund checks will be issued promptly, but no later than either: (i) the customer's next billing cycle following resolution of the request or thirty(30) days, whichever is earlier, or (ii) the return of the equipment supplied by the cable operator if service is terminated.

D. Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

**117.04 VIOLATIONS; NOTICE; HEARING.** Whenever the City determines that a cable operator is violating, or has violated, any of the customer service standards set forth in Section 117.03, the City shall give written notice by certified mail to the cable operator specifying the violation or violations. The cable operator shall respond in writing to such notice within ten (10) days following receipt of the same. Such response shall admit or deny the violation and shall contain such explanation as the cable operator desires. The cable operator may also request a hearing before the Council at which time it shall have an opportunity to be heard and to present evidence concerning the alleged violation. Such request shall be included in the response. A failure by the cable operator to respond within the time specified shall be deemed an admission of the violation and the cable operator shall have no further opportunity for hearing. If the cable operator requires additional time to make its response it shall make a request therefor in writing specifying the reason additional time is needed and shall request an additional specified time within which to make its response. Such request shall be made within the initial time for response as provided above. If such request is granted the City shall so notify the cable operator in writing and the cable operator shall make its response within the time requested. If the request is denied, the City shall so notify the cable operator in writing, in which case the cable operator shall respond within ten (10) days following receipt of notice of the denial. Following consideration of any response and any hearing thereon, the Council shall take whatever action it deems appropriate under the circumstances, including, but not limited to, imposition of the penalties provided for in this chapter.

**117.05 PENALTIES.** If after notice and opportunity for hearing as prescribed in Section 117.04, the City determines that the cable operator is, or has, violated any of the provisions of

this chapter, the City may order the cable operator to reduce the rate for basic cable tier service by ten percent (10%) until such time as the City is satisfied that the cable operator is in full compliance with the provisions of this chapter. In the case of the violations which are corrected prior to determination by the City that a violation did occur, the City may order the cable operator to reduce such rates for a period of time equal to the period of time during which the violation existed. Additionally, and not in substitution of the foregoing, any violation of the provisions of this chapter is a municipal infraction subject to imposition of the penalties prescribed therefor in this Code of Ordinances.

**117.06 ENFORCEMENT.** The City shall have the right to enforce this chapter by action at law or in equity and shall have, in addition to and not in substitution of the remedies provided for herein, all remedies, legal or equitable, which may be available under any applicable Federal, State or local statute, rule or regulation.

[The next page is 601]

## 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 Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32 [2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

*(Code of Iowa, Sec. 123.49 [1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling

alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49 [2f])*

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49 [2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

*(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 which 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 which 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 which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[21])*

**120.06 AMUSEMENT DEVICES.**

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

*(Ord. 2007-2000 – Dec. 07 Supp.)*

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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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. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes. (Ord. 2007-2100 – Dec. 07 Supp.)

**121.02 PERMIT REQUIRED.**

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

*(Ord. 2007-2100 – Dec. 07 Supp.)*

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

**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 (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

*(Ord. 2007-2100 – Dec. 07 Supp.)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
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, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

**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 or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under



this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may 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 Iowa Department of Public Health within thirty (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	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License and Bond Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	122.20 Prohibited Acts

**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 which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

**122.03 LICENSE AND BOND REQUIRED.**

1. 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.
2. No license shall be issued until the applicant has delivered to the City Clerk a cash bond for no less than \$200.00 per license or \$1,000.00 for an employer employing a group of five (5) or more license applicants.
  - A. Use of Bond. The bond shall be held to indemnify and pay the City any penalties or costs incurred in the enforcement of any of the sections of this chapter, and to indemnify or reimburse any purchaser for damages recovered pursuant to a judgment of the court as a result of misrepresentation related to the goods or services sold by a licensee, provided that the action by

the purchaser must be commenced within three months from the date of purchase.

B. Release of Bond. The balance of the bond shall be released by the City Clerk and returned to the applicant or employer upon request by the applicant or employer at any time more than four months after expiration of the license for which the cash bond was provided. Except as otherwise provided by court order, the City Clerk shall not release any bond during the pendency of any action in state or federal court seeking a judgment upon a claim eligible for payment from the bond.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall be accompanied by a \$15.00 application fee and set forth the following information:

1. Applicant's name, e-mail address, if any, permanent and local address, and local phone number or cell phone number;
2. Business address, business e-mail address, if any, and business phone number, if any;
3. The nature of the applicant's business;
4. The last three places of such business;
5. The length of time sought to be covered by the license;
6. Applicant's federal identification number and the federal identification number of any business for which applicant claims to be peddling as an agent, employee, or otherwise;
7. An Iowa sales tax permit number or a letter from the Iowa Department of Revenue confirming a sales tax permit is not required;
8. A Department of Criminal Investigation criminal history report/record for applicant from the state of applicant's residence for the previous five (5) years, including pending charges, dated no more than 30 days prior to the date of the application;
9. A criminal background check from the State of Iowa for applicant and any additional individuals listed on application, dated no more than 1 year prior to the date of the application;
10. Whether applicant has been listed on any sex offender registry within the last five (5) years;
11. Whether applicant has had a peddlers license suspended, revoked, or denied by this or any other city in the last five (5) years and the reasons therefore;
12. The dates of any previous peddlers licenses issued by the City Clerk;
13. A list of any vehicles used in the business and the license plate number of any such vehicles;

Upon receipt of the application and accompanying criminal background check, the City Clerk shall conduct an investigation under the following procedures prior to issuing a license:

1. The City Clerk shall refer the application and criminal background check provided by the applicant to the Chief of Police or his/her designee, who shall make an investigation of the character and reputation of the person(s) who will conduct business within the City of Polk City, Iowa, to the extent he/she believes necessary for the protection of the public welfare, except that prior misconduct cannot serve as a basis for denial of a license;
2. The Chief of Police shall endorse the application with his/her approval or disapproval and forward such endorsed application to the City Clerk;
3. If the application has been approved by the Chief of Police, the City Clerk may issue a license to the applicant upon the payment of all license and application fees, bonds, and compliance with all other conditions provided in this Code;
4. If the application has not been approved by the Chief of Police, the City Clerk shall not issue a license unless and until the causes for such disapproval are eliminated;
5. When causes for disapproval are eliminated, the applicant may resubmit to the Clerk and the Clerk shall forward the amended application to the Chief of Police for investigation in the same manner as submission of the initial application set forth herein.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. For each person actually soliciting (principal or agent), a fee of one hundred dollars (\$100.00) per year.
2. Peddlers or Transient Merchants.
  - A. For one day.....\$ 50.00
  - B. For one week.....\$ 100.00
  - C. For up to six (6) months.....\$ 200.00
  - D. For one year or any major part thereof.....\$ 300.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon request, leave a copy of the license with each prospective customer with whom the peddler speaks while peddling 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. Any misrepresentation in the displaying of licenses issued under this Chapter shall subject the licensee to revocation in addition to any claim in state or federal court by an injured purchaser.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**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 10:00 a.m. and 8:00 p.m.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.11 REVOCATION OF LICENSE.** The Clerk or the Police Chief or Police Chief's Designee may summarily suspend or revoke any license issued under this chapter by issuance of personal service of the Notice of Revocation on the licensee or on an officer or employee of the licensee or, if personal service cannot be effected, by mailing the Notice by certified mail, return receipt requested, to the licensee's last known mailing address 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, including conduct prohibited by Section 122.20, 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 license shall stand revoked unless, within five days after receipt of the Notice of Revocation from the Clerk, the licensee files a written request for a public hearing on the revocation.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.12 NOTICE.** The Notice of Revocation sent to or served upon the licensee shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and advise that the time for requesting a hearing will expire within five days of the date of service or certified mail receipt of the Notice. The license shall be suspended until such time as a hearing is held by the request of the licensee.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.13 HEARING.** If timely requested in accordance with Section 122.11, 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, request a hearing and fail to appear without good cause, the Clerk may proceed to hold the decision to revoke the license as final and no appeal by the licensee will be heard in accordance with Section 122.15.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.14 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.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or

affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council. The Clerk's decision to revoke or refuse issuance of a license shall stand unless and until a timely appeal is made before the Council at its next regular meeting.

*(Ord. 2013-400 – Jan. 14 Supp.)*

**122.16 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.

**122.17 REBATES.** No rebates of the fees required in this chapter shall be permitted without Council approval.

**122.18 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 and youth groups.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own produce on private property.
4. Students. Students representing the North Polk 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.
7. City sponsored and/or community events held on City property.

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A 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, the name and social security number of each representative of the organization, names and addresses of the officers and directors of the organization, a list of any vehicles used and the license plate number of any such vehicles, 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 122.15 of this chapter.

**122.20 PROHIBITED ACTS.**

1. No peddler shall conduct peddling with any person situated in a motor vehicle upon any public street, alley, driveway access, or public way.
2. No peddler shall conduct peddling upon any part of the public right away along a parade route on the day of any permitted parade.
3. No peddler shall conduct peddling within one thousand (1,000) feet of the perimeter of a street closure, or inside such perimeter, for an event where a street use permit has been issued unless written permission from the street use permit holder has been obtained.
4. No peddler shall conduct peddling between the hours of 9:00 p.m. and 9:00 a.m.
5. No peddler shall do business or attempt to do business upon any property on which a notice is posted prohibiting peddling or soliciting.
6. No peddler shall harass, intimidate, coerce, annoy, disrespect, alarm, or threaten any individual to induce a sale.
7. No peddler shall falsely or fraudulently misrepresent the quality, character or quantity of any article, item or commodity offered for sale or sell any unwholesome or tainted food or foodstuffs.
8. No peddler shall conduct business in such a manner as to endanger the public health, welfare, or safety.

*(Ord. 2013-400 – Jan. 14 Supp.)*



## 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 Denial of Permit  
123.09 Restrictions  
123.10 Equipment  
123.11 Placement of Equipment  
123.12 Damages

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move any house, building, structure or any part or parts thereof from one location to another when the moving of such house, building, or structure or part or parts of structures requires traveling upon, across, along or over any street, avenue, highway, thoroughfare, alley, sidewalk or other public ground in the City.

**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. Structures or parts of structures less than fifteen (15) feet wide and less than thirteen and one-half (13½) feet high are exempt from the provisions of this chapter.

**123.03 APPLICATION.** Any person desiring a house moving permit as required herein shall file an application with the Public Works Director at least seven (7) days prior to the commencement of the work. Such application shall contain:

1. The date or dates and time of moving the house, structure or building.
2. The detailed statement setting forth the proposed route to be followed in moving the structure, the equipment to be used and specifying the person in charge of the moving operation.
3. The location of the premises to which the structure is to be moved and the zoning classification thereof.
4. The name of the owner of the structure and the name of the owner of the premises to which it is being moved showing that the applicant is entitled to move the house.
5. A plot plan of the location to which the structure is to be moved, showing the exact proposed location of the structure, the boundaries of the lot upon which the structure is to be placed, and the dimensions of said lot.
6. A statement showing the maximum length and width, including eaves, and loaded height of the structure to be moved.
7. An agreement that the house mover shall indemnify and hold the City harmless from any claims or damages for injury to person or property resulting from the moving of the structure for which the permit is requested.
8. An agreement that the applicant shall immediately report any damage done by the moving operation to any street, sidewalk, alley, curb, highway, tree or other public

property and that the applicant will upon demand pay the cost of repair occasioned by said damage to the City.

**123.04 BOND REQUIRED.** The applicant for a house mover's permit shall file with the application a bond, with an approved corporate surety in the penal sum of one hundred thousand dollars (\$100,000.00), conditioned that all work done under such permit shall be done in good and workmanlike manner, and that the applicant will pay to the City or to any person injured all damages for injuries to person or property, including but not limited to damages to any street, curb, sidewalk or any other public property caused by negligence, fault or mismanagement of cause, in doing work under such permit.

**123.05 INSURANCE REQUIRED.** Before the permit is issued, the applicant shall obtain and furnish to the City an insurance policy for public liability and property damage in the amount of \$100,000 per person injured, \$300,000 per accident, and \$50,000 property damage. Said insurance policy shall name the City and the applicant as insured and shall provide that said policy cannot be revoked, cancelled, or modified in any way until the City has been notified by certified mail at least ten (10) days prior to the proposed action.

**123.06 PERMIT FEE.** The fee for a house moving permit is twenty-five dollars (\$25.00) for a structure of less than five hundred square feet and fifty dollars (\$50.00) for a structure of more than five hundred square feet, as calculated from the outside foundation dimensions of entire structure, which fee shall be paid at the time the application is filed.

**123.07 PERMIT ISSUED.** Upon the filing of the application with the Public Works Director, payment of the fee, filing of the bond, acquisition of an insurance policy as herein required, and approval by the Public Works Director, a house moving permit shall be issued by the City in accordance with the provisions of this chapter.

**123.08 DENIAL OF PERMIT.** When in the judgment of the Public Works Director the proposed work will result in an undue hazard to traffic or undue damage to streets, highways, curbs, sidewalks, trees or other public or private property, the permit shall be denied and the reasons therefor endorsed upon the application.

**123.09 RESTRICTIONS.** A permit issued pursuant to this chapter may be restricted in that the Public Works Director may require the Police Chief to escort the house being moved and may restrict or specify the cost of these requirements shall be borne by the house mover.

**123.10 EQUIPMENT.** All equipment used in the moving operation must be equipped with adequate warning flares and lights. A house mover shall at all times comply with the provisions of State law pertaining to wheel loadings. The house mover shall not use any equipment which travels upon the streets, highways, alleys, sidewalk or other public grounds that is not equipped with rubber tires.

**123.11 PLACEMENT OF EQUIPMENT.** All caster wheels or other rolling gear shall be placed under the house, structure or building to be moved in such a manner that the measurement of the maximum outside width of such casters, wheels or rolling gear shall be at least two (2) feet less than the width of the traveled portion of the roadway upon which the house structure or building is to be moved.

**123.12 DAMAGES.** The house mover shall report any damages done to any street highway, alley, sidewalk, curb, tree, telephone or light poles or wires, or to any other public or

private property, except property owned by the house mover or the structure being moved, to the Public Works Director within twelve (12) hours after the occurrence. The house mover shall, upon demand, pay any damages resulting from an injury to any person or property. Nothing herein shall be construed to prevent the house mover from contesting any claim in good faith in any court.

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**CHAPTER 124**  
**LICENSING OF ELECTRICAL, PLUMBING**  
**AND MECHANICAL CONTRACTORS**

*(Repealed by Ord. 2010-200 – May 10 Supp.)*

[The next page is 631]

## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Fine for Placing Debris On or Dumping of Snow

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the Building Inspector and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.



8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the property owner. The property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.
11. Permit Fee. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
13. Compliance. Compliance with the Urban Design Standards and Urban Standard Specifications must be maintained.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 FINE FOR PLACING DEBRIS ON OR DUMPING OF SNOW.** The penalty for this unlawful action as outlined in Section 135.03, Placing Debris On and Section 135.12, Dumping of Snow may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00).

Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

*(Ord. 2016-400 – Jan. 17 Supp.)*

## 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 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. “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.
2. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
3. “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.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twenty-four (24) hours after a snowfall or the deposit or formation of ice thereon, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk by removal of snow, ice and accumulations. *(Ord. 2017-1000 – Jan. 18 Supp.)*  
*(Code of Iowa, Sec. 364.12[2b & e])*

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street, free from defects, debris, nuisances, obstructions or any other hazard. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.  
*(Code of Iowa, Sec. 364.12 [2c])*  
*(Ord. 2017-1000 – Jan. 18 Supp.)*

**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. Liability to the public is hereby imposed upon the property owner for failure to comply with this section.

*(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. Liability to the public is hereby imposed upon the property owner for failure to comply with this section.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be constructed in accordance with the Urban Design Standards and Urban Standard Specifications. An official copy of the specifications is on file in City Hall. All such work shall be done under the direction and supervision of and subject to inspection and approval of the Public Works Director. If such work does not comply with the provisions of this chapter, the Public Works Director, after notice to the property owner, shall cause the sidewalks to be constructed in the proper manner and assess the cost for such work against the abutting property for collection in the same manner as a property tax.

**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 other than a sidewalk also serving as a driveway approach, 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 (6) feet of any sidewalk.

**136.14 FIRES OR FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.15 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 (3) 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.

[The next page is 645]

## CHAPTER 137

# VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

*(Code of Iowa, Sec. 364.7)*

**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.

*(Code of Iowa, Sec. 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
All vacation ordinances adopted prior to Ordinance No. 96-400			
96-400	August 12, 1996	2017-700	November 13, 2017
96-800	October 28, 1996	2017-1200	November 13, 2017
97-700	June 23, 1997		
97-800	July 14, 1997		
97-1000	July 14, 1997		
97-1100	August 25, 1997		
97-1300	October 13, 1997		
98-200	January 12, 1998		
98-400	March 9, 1998		
98-600	December 28, 1998		
99-100	July 26, 1999		
2003-800	October 13, 2003		
2004-100	March 8, 2004		
2004-400	November 22, 2004		
2007-1100	August 27, 2007		
2008-200	March 24, 2008		
2008-500	July 28, 2008		
2009-1000	January 11, 2010		
2010-2100	August 23, 2010		
2009-1100	October 10, 2011		
2011-700	June 13, 2011		
2012-600	September 24, 2012		
2012-1000	November 12, 2012		
2013-1200	October 28, 2013		
2013-1300	November 11, 2013		
2014-600	August 22, 2014		
2015-700	June 22, 2015		
2015-800	August 10, 2015		
2016-1100	January 25, 2016		
2016-1200	January 25, 2016		



## CHAPTER 138

### STREET GRADES

**138.01 Established Grades**

**138.02 Record Maintained**

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades in conformance with the Urban Design Standards.

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

<b>EDITOR'S NOTE</b>			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>

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## 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 Polk City, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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## CHAPTER 140

# DRIVEWAY REGULATIONS

140.01 Permit Required

140.02 Permit Fee

140.03 Concrete Pavement Required

140.04 Completion by the City

140.05 Culverts

**140.01 PERMIT REQUIRED.** No person shall break out or remove a curb along any public street, or construct a private drive from a public street, without first obtaining a permit from the Clerk or Building Official. No such permit shall have any force or effect unless approval shall be endorsed of the fact on said permit by the Building Official.

**140.02 PERMIT FEE.** Before any permit is issued, the person who makes the application shall pay a fee of fifteen dollars (\$15.00) to the Clerk.

**140.03 CONCRETE PAVEMENT REQUIRED.** In all cases where said permit has been granted, the concrete curb shall be ground or sawn in accordance with the Urban Design Standards and Urban Standard Specifications and the driveway and approach shall be paved with not less than six (6) inches of concrete extending from the curb to the inside of the existing sidewalk line within thirty (30) days from the removal of the curb. If it is shown to the satisfaction of the Public Works Director that the existing sidewalk has substantially the same strength as six (6) inch concrete, said paving need only extend to the outside of the sidewalk line. All work is to be done in a workmanlike manner, inspected and approved by the City. All driveway approaches shall be paved from the street to the sidewalk according to the Urban Design Standards and Urban Standard Specifications. If there is no sidewalk, the approach shall extend to the property line and shall be inspected by the City.

**140.04 COMPLETION BY THE CITY.** If, after thirty (30) days after the curb has been removed, the person so doing fails or refuses to pave the driveway, as provided herein, the City shall have the right to do so without notice, and assess the cost thereof, as a special tax against the abutting property and collect the same according to law.

**140.05 CULVERTS.** When a permit has been granted to construct a private driveway and a culvert is required, the person receiving said permit shall perform the necessary grading and install a culvert in accordance with the following:

1. The culvert shall be either concrete or corrugated iron with a minimum diameter of fifteen (15) inches and a maximum length of twenty-four (24) feet, the permit holder to bear the cost of the culvert.
2. The Public Works Director is hereby empowered to order existing culverts, which do not meet the requirements of this section or are damaged, replaced when the Public Works Director deems the culvert will not satisfactorily carry away run-off water.
3. It shall be the responsibility of the property owner to make such replacement and, in the event the owner fails to do so, the Public Works Director shall have the right to make the replacement. The property owner shall be charged with the costs of the same, and if not paid within ninety (90) days from the date of completion of said

replacement, said cost shall be assessed as a special tax against the abutting property and collected according to law.

4. All culverts installed or replaced shall be installed in accordance with, and all work must be in compliance with, the Urban Design Standards and Urban Standard Specifications and shall conform to the established ditch grade, as determined by the engineer or Public Works Director.

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## CHAPTER 145

# DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Zoning Enforcement Officer is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.<sup>†</sup>

**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 POLK CITY, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

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<sup>†</sup> **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.

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

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## CHAPTER 150

# BUILDING NUMBERING

### 150.01 Definitions

### 150.02 Owner Requirements

### 150.03 Building Numbering Map

**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 (2½) inches in height and of a contrasting color with their background. The assigned number must be displayed at the commencement of construction.  
*(Code of Iowa, Sec. 364.12[3d])*
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.  
*(Code of Iowa, Sec. 364.12[3h])*

**150.03 BUILDING NUMBERING MAP.** The Clerk shall be responsible for preparing and maintaining a building numbering map.

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## CHAPTER 151

### TREES

151.01 Definition

151.02 Tree Planting Prohibited

151.03 Plan Submitted

151.04 Review of Plan

151.05 Guidelines

151.06 Enforcement

151.07 Maintenance; Liability

151.08 Tree Service Businesses

**151.01 DEFINITIONS.** For the purposes of this chapter, the following terms are defined:

1. “Public right-of-way” means any public street, sidewalk or other public property, and includes, but is not limited to, the parking area between the curb of any public street and the adjacent public sidewalk.
2. “Tree” means any tree, shrub, plant or other vegetation which, when mature, will exceed a height of ten (10) feet.

**151.02 TREE PLANTING PROHIBITED.** No person shall plant or cause to be planted any tree on or in any public right-of-way located within the City except in compliance with the provisions of this chapter.

**151.03 PLAN SUBMITTED.** Any person proposing to plant a tree on or in a public right-of-way shall first prepare a written plan which shall contain the following information:

1. The names and addresses of the person making the proposal and of all private property owners whose property is adjacent to or contiguous with the public right-of-way upon or in which the proposed trees are to be planted.
2. The location of the property where the proposed planting is to take place.
3. The type and number of trees proposed to be planted and a sketch or drawing showing how the plantings will be placed on the property. The sketch or drawing shall show distances between proposed trees and distances of proposed tree plantings from existing streets, sidewalks, traffic signs, utility lines, utility poles, hydrants and intersections.
4. The plan shall be signed by the person submitting the same.

**151.04 REVIEW OF PLAN.** The City Public Works Director shall review each plan submitted and shall either approve it or deny it, in writing, within thirty (30) days after it is received. The Public Works Director shall provide the City Tree Board with a copy of all plans submitted and shall obtain the advice and assistance of the City Tree Board in determining whether to approve or deny any plan. If the plan is denied, the denial shall state the reasons therefor. If denied, the plan may be resubmitted with any modifications required by the Public Works Director. The decision of the Public Works Director shall be final.

**151.05 GUIDELINES.** No plan submitted pursuant to the provisions of this chapter shall be approved unless all of the following conditions are met:

1. Any tree proposed to be planted in accordance with the terms of this chapter must be of a type included on the list of tree species suitable for planting within the right-of-way, as established by the City Tree Board.

2. Trees must be spaced at least fifteen (15) feet apart, center to center.
3. Every tree to be planted must have a trunk diameter of at least one inch, measured twelve (12) inches from the base.
4. Trees must be planted a minimum of:
  - A. Five (5) lineal feet from water service stop boxes.
  - B. Ten (10) lineal feet from water hydrants, utility poles, transformers, telephone junction boxes, manholes and driveway approaches.
  - C. Twenty (20) lineal feet from traffic signs and street lights.
5. No tree shall be planted closer than three (3) feet from the curb line and no closer than three (3) feet from the edge of the sidewalk closest to the street. No tree shall be planted where there is, or will be at the tree's maturity, less than two and one-half (2.5) feet of soil on all sides of such tree.
6. Trees shall not be permitted within thirty (30) feet of the intersection of the right-of-ways of public streets or within twenty (20) feet of the intersection of the curb line of driveways of commercial, industrial or institutional properties with a public street.
7. No tree shall be permitted in any case which, because of its size or location, or because of its eventual growth, will interfere with street signs, fire hydrants, street lights, utility poles or utility lines; or which will create any hazard to the safe flow of traffic by obstructing vision or otherwise.
8. During the development, redevelopment, razing or renovating of any property, no more than fifty percent (50%) of the trees existing in the public right-of-way adjoining such property shall be cut, damaged or removed, nor shall any person excavate any ditch, tunnel or trench or lay any driveway within a radius of twenty (20) feet from any tree in the public right-of-way. Provided, however, the Public Works Director may issue a special permit to allow cutting or removal of trees or excavation which would otherwise violate this provision on application therefor by the owner of the property and upon determination by the Public Works Director that variance from the provisions of this section is reasonably necessary to enable development of the property in accordance with previously approved development plans.
9. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to any tree in or on a public right-of-way; or allow any gaseous, liquid, chemical or solid substance that is harmful to such trees to come into contact with them; or set fire to any such tree or part thereof, or cause or permit any burning which will damage any such tree or a part thereof.
10. Tree topping is not permitted on any tree in or on a public right-of-way.
11. All trees or shrubs, whether on public or private property, which have branches overhanging a public street or sidewalk shall be kept trimmed to a clearance height of fourteen (14) feet for branches overhanging a street and ten (10) feet for branches overhanging a sidewalk. It is the duty of any person owning or occupying real property adjoining a public street or sidewalk and on which there may be trees, to prune such trees, at a minimum, in such a manner as to comply with this section, and in addition, to the extent necessary, to preclude any obstruction or shading of street lights, any obstruction to the passage of pedestrians on sidewalk, any obstruction to the vision of traffic signs, or of street or alley intersections.

12. All trees removed from public right-of-way shall be completely removed from the growing site and disposed of in a lawful manner.

**151.06 ENFORCEMENT.** Any tree planted without approval as provided in this chapter or which is planted in deviation from an approved plan or which, having been approved, becomes a hazard because of changed circumstances or which is not maintained in accordance with the provisions of this chapter is hereby declared to be a public nuisance. The Public Works Director is authorized to issue written orders to persons violating the provisions of this chapter directing such persons to take specific actions within a specific time to correct any such violation. In the event any person to whom such an order is directed fails to comply with the same, the City may take whatever action is necessary to correct the violation and assess the cost thereof for collection in the manner of real estate taxes. In addition, any violation of this chapter is declared to be a municipal infraction. The rights and remedies of the City hereunder are in addition to and not in substitution of any other or further rights or remedies the City may have under this Code of Ordinances or State law.

**151.07 MAINTENANCE; LIABILITY.** Any person planting trees in or on a public right-of-way pursuant to this chapter and such person's successors in interest shall be and remain solely responsible for the proper maintenance of such tree or trees in compliance with this chapter and all other ordinances and regulations of the City. At the time that the request for approval for the planting of such trees is made, such person shall agree in writing, as a condition to such approval being given, to assume, pay and hold the City harmless from payment or liability for any damages of any nature whatsoever caused by the planting or maintenance of the trees.

**151.08 TREE SERVICE BUSINESSES.** Any person owning or operating a tree service business within the City shall obtain, maintain and provide to the Clerk evidence of liability insurance coverage covering all risk of damage or liability arising out of the conduct of such business in minimum amounts of \$100,000 for property damage and \$300,000 for injury to or death of any one person. Proof of such coverage delivered to the Clerk shall be a prerequisite to the conduct by any person of a tree service business in the City.

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## CHAPTER 152

### WEEDS

**152.01 REMOVAL OF WEEDS.** It is the duty of the owners of any property within the City to keep such property free from weeds, vines, brush, or other vegetation when such growth constitutes a health, safety, or fire hazard. No person shall allow or permit grass or weeds to grow upon such person's property to a height in excess of six (6) inches. All grass or weeds in excess of such height shall be cut or eliminated by the City after giving three (3) days' written notice to the owner or occupant of such property. Such notice may be personally mailed, by ordinary mail, to the owner's last known address, no less than five (5) days before the required action. A failure to receive such notice shall not be deemed to be a defense to any assessment certified under this section. The actual cost of cutting or elimination of such grass or weeds shall be assessed against the property for collection in the same manner as property taxes. An owner or occupant of a property which receives two (2) written notices in a twelve (12) month period may be subject to a municipal infraction in accordance with Chapter 3 of this Code.

*(Ord. 2010-2400 – Apr. 11 Supp.)*

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## CHAPTER 155

# BUILDING CODES

155.01 Title	155.08 Electrical Code
155.02 Administrative Provisions	155.09 Fire Code
155.03 General Provisions	155.10 Life Safety Code
155.04 Adoption of Building Codes	155.11 Residential Code
155.05 Building Code	155.12 Energy Conservation Code
155.06 Mechanical Code	155.13 Fuel Gas Code
155.07 Plumbing Code	155.14 Property Maintenance & Housing Code

**155.01 TITLE.** This chapter shall be known as the Polk City, Iowa, Building Codes, may be cited as such, and will be referred to herein as “The Building Codes.”

### **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 Polk City, Iowa, Building Codes.
2. The Building Official shall be appointed by the Mayor, subject to approval of the 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 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 GENERAL PROVISIONS.** Notwithstanding anything to the contrary otherwise set forth in the International Building Code Standards, the square footage requirements for each classification of private dwellings as set forth in the Zoning Regulations shall be the minimum requirements for finished living area exclusive of unfinished basement area.

**155.04 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 Polk City, 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.

### **155.05 BUILDING CODE.**

1. **Short Title.** This chapter shall be known as the Polk City Building Code, and may be cited as such, and may be referred to herein as this chapter.

2. **Adoption of Building Code.** Pursuant to published notice as required by law, the *International Building Code 2012 Edition*; and the *International Residential Building Code 2012 Edition*, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the International Building Code 2012 Edition as adopted, a copy of the International Residential Code 2012 Edition as adopted and a copy of this chapter are on file in the office of the Code Official.

3. **Amendments, Modifications, Additions and Deletions.** *The International Building Code, 2012 Edition* (hereinafter known as the IBC), and the *International Residential Code, 2012 Edition* (hereinafter known as the IRC), are amended as hereinafter set out in Sections 175.04 through 175.59.

4. **Referenced Codes - Amendments, Modifications, Additions and Deletions.** The remaining sections in this chapter represent amendments to the requirements contained in the IBC and IRC. In the event requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply except that all references to flood hazard construction shall be coordinated in concurrence with Polk City NFIP adoption dated 16-May-1983.

5. **Deletions.** The following is deleted from the IRC and is of no force or effect in this chapter:

Subsection 501.3 Fire protection of floors  
Part VIII - Electrical

6. **Subsections 101.1 and R101.1 Amended - Title.** Subsections 101.1, Title, of the IBC and R101.1, Title, of the IRC, are hereby deleted and there is enacted in lieu thereof the following subsections:

Subsection 101.1 Title. These regulations shall be known as the Polk City Building Code, hereinafter known as “this code.”

Subsection R 101.1 Title. These provisions shall be known as the Polk City Residential Code for One- and Two – Family Dwellings, and shall be cited as such and will be referred to herein as “this code.”

7. **Subsection 101.4.6 Amended and R101.3.1 Addition - Energy.** Subsection 101.4.6, Energy, of the IBC, is hereby amended by deleting said subsection and inserting in lieu thereof the following subsection and Subsection R101.3.1, Intent, of the IRC, is hereby established by adding the following subsection:

Subsection 101.4.6 Energy and Subsection R101.3.1 Intent. The provisions of the International Energy 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 “this code” and these regulations shall be known as the Polk City Energy Code. Construction or work for which a permit is required shall be subject to inspections and the Building Official may make or cause to be made the requested 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.

8. **Subsections 103.1 and R103.1 Amended - Creation Of Enforcement Agency.** Subsection 103.1, Creation of enforcement agency, of the IBC and R103.1, Creation of enforcement agency, of the IRC, are hereby amended by adding the following paragraph:

Subsections 103.1 and R103.1 Building and Zoning Administrator. The term Building Official is intended to also mean the Building and Zoning Administrator, who shall be appointed by the Mayor and subject to the approval of the Council and shall hereinafter be referred to as Code Official and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official. The Code Official when so appointed, shall be responsible for the enforcement of the Building Code; the Mechanical code; the Housing code; the Plumbing code; the Gas Code, the Energy code, the Electrical code, the Zoning code and the Fire Prevention code of the city. The Code Official shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title. The Code Official shall have whatever additional duties the City Administrator may prescribe.

9. **Subsection 104.11 Addition - Alternate Materials, Methods And Equipment.** Subsections 104.11.3, Plumbing and Fuel Gas, of the IBC, is hereby established by adding the following subsection:

Subsection 104.11, Alternate materials, methods and equipment, of the IBC is hereby amended by adding the following subsection and exception:

Subsection 104.11.3 – Iowa State Plumbing Code. The Iowa State Plumbing Code consisting of the Uniform Plumbing Code, as prepared and edited by the International Association of Plumbing and Mechanical Officials, as amended and currently adopted by the State of Iowa Department of Public Health, is hereby approved as an alternate equivalent method for complete plumbing and fuel gas systems.

Subsection 104.11.3, Administration exception 1. Administrative regulations shall be as prescribed in the International Plumbing Code, 2012 Edition and International Fuel Gas Code, 2012 Edition, as adopted and amended.

10. **Subsections 105.1 and R105.1 Addition - (permits) Required.** Subsections 105.1, Required, of the IBC and R105.1, Required, of the IRC, are hereby amended by adding the following to said subsections:

Subsections 105.1 and R105.1 Platting required. A building permit shall not be issued unless the land upon which the proposed work is to be done is platted pursuant to the provisions of the subdivision regulations. A building permit shall not be issued permitting the construction of any building or other structure on any lot designated on any plat as an outlot, without such lot being replatted in accordance with the provisions of the subdivision regulations. Such platting may be waived by the city council if that body determines that no portion of the land is needed for public purposes or if that portion needed for public purposes, as determined by the council, is dedicated to the city; provided further, that such platting may be waived by the Zoning Enforcement Officer if the requested building permit is for one of the following purposes:

1. Any accessory structure or addition for a one or two family residence;

2. The removal, repair or alteration of a structure on unplatted premises, provided that there is no change in the use classifications of such structure;

3. The term "alteration" shall be deemed to mean any change or modification of a structure that does not serve to increase the size of the original structure by more than ten percent.

11. **Subsections 105.2 and R105.2 Amended - Work Exempt From Permit.** Subsections 105.2, Work exempt from permit, of the IBC and R105.2, Work exempt from permit, of the IRC are hereby amended by deleting the following items and adding a sentence to said subsections as follows:

Delete Subsection 105.02, Building, Item 2 and Subsection R105.2 Building, Item 2. Exemption from permit requirements of this chapter shall not preclude requirements for permitting of plumbing, electrical and mechanical installations and systems or compliance with Polk City Code of Ordinances.

12. **Subsections 105.5 and R105.5 Amended - Expiration.** Subsections 105.5, Expiration, of the IBC and R105.5, Expiration, of the IRC, are hereby amended by deleting said subsections and inserting in lieu thereof the following:

Subsections 105.5 and R105.5 12 Month Expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

13. **Subsections 105.6.1 and R105.6.1 Addition - Revocation of Permit.** Subsections 105.6.1 Revocation of Permit, of the IBC and R105.6.1, Revocation of Permit, of the IRC, are hereby established by adding the following subsections:

Subsections 105.6.1 and R105.6.1 Revocation of Permit. It is the responsibility of the permit holder to schedule the required inspections and obtain final approval. Failure to schedule the required inspections and receive approval of work authorized by the permit before covering said work or at completion shall result in revocation of the permit and void any associated approvals granted by the City. This failure shall also equate to working without a permit in violation of City ordinance and no future permits shall be issued to any person or company who has outstanding violations of this code or any other laws or ordinances of the City. Failure to contact the City for any inspection or follow-up prior to expiration of a permit shall be deemed a violation of this code section. Failure to contact the City for any inspection or follow-up prior to expiration of a Temporary Certificate of Occupancy shall also be deemed a violation of this code section. Allowing occupancy of a structure, for which a person or company holds a building permit, prior to or without a valid Certificate of Occupancy (temporary or final) shall be deemed a violation of this code section and no future permits shall be issued to any

person or company who has outstanding violations of this code or any other laws or ordinances of the City.

14. **Subsections 109.2.1 and R108.2.1 Addition - Plan Review Fees.** Subsections 109.2.1, Plan review fees, of the IBC, and R108.2.1, Plan review fees, of the IRC, are hereby established by adding the following subsections:

Subsections 109.2.1 and R108.2.1 Plan review fees. Fees for all plan reviews shall be as set forth and established by resolution of the City Council. All such fees shall be paid in accordance with the terms and requirements of such resolution or as the same may be amended by the City Council from time to time.

15. **Subsections 109.4 and R108.6 Addition - Work Commencing Before Permit Issuance.** Subsections 109.4, Work commencing before permit issuance, of the IBC, and R108.6, Work commencing before permit issuance, of the IRC, are hereby established by adding the following sentence after said subsections:

Subsections 109.4 and R108.6 Work commencing before permit issuance. Said fee shall be 100 percent of the usual permit fee in addition to the required permit fees.

16. **Subsection R110.1 Amended - Use and Occupancy.** Subsection R110.1, Use and occupancy, of the IRC, is hereby amended by deleting exception #2 - Accessory buildings or structures.

17. **Section 112 and R111 Addition - Underground Utility Installation.** Subsections 112.4, Service Utilities, of the IBC, and R111.4, Service Utilities, of the IRC, are hereby established by adding the following subsections:

Subsections 112.4 and R111.4 Underground utility installation. All electrical service lines not exceeding four hundred eighty volts and all telephone and cablevision service lines, as well as other utility lines serving any new building or structure, including signs and billboards, requiring permanent electrical service shall be placed underground unless a waiver from such is approved by the city engineer.

The provisions of this section shall not apply to existing buildings or additions to such buildings. Nothing in this section shall be deemed to apply to temporary service when defined as such by the utility company.

18. **Section R202 Amended - Definitions.** Section 202, Definitions, of the IBC, and Section R202 Definitions, of the IRC, are hereby amended by deleting the definition of accessory structure, swimming pool and townhouse and inserting in lieu thereof the following:

Section 202 Swimming Pool. Any structure intended for swimming, recreational bathing or wading that is capable of containing water over 24 inches deep. This includes in-ground, above-ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools, but excludes manmade lakes or ponds created through the collection of storm water or drainage runoff.

Section R202 Accessory Structure. Accessory structures shall be defined as and shall conform to applicable zoning requirements and shall include but not be limited to structures and equipment with a fixed location on the ground, including wind energy systems, generators and equipment shelters.

Section R202 Townhouse. A single-family dwelling unit constructed in groups of three or more attached units in which each unit extends from foundation to roof. Townhouse groups of more than twelve units shall have a yard or public way on at least two sides.

19. **Table R301.2(1) Amended - Climatic and Geographic Design Criteria.** Table R301.2(1), Climatic and Geographic Design Criteria, of the IRC, is hereby amended by modifying said table as follows:

Table R301.2(1), Climatic and Geographic Design Criteria

Ground Snow Load	Wind Design		Seismic Design Category	Subject To Damage From			Winter		Flood Hazards	Air Freezing Index	Mean Annual Temp.
	Speed MPH	Topographic Effects		Weathering	Frost Line Depth	Termite	Design Temp	Ice Barrier Req'd.	NFIP Adoption		
30 PSF	90	NO	A	Severe	42"	Slight/ Moderate	-5° F	Yes	16-May-83	1833	48.6

20. **Subsection R302.1 Amended - Exterior Walls.** Subsection R302.1, Exterior walls, of the IRC, is hereby amended by deleting all exceptions and inserting in lieu thereof the following exception:

Subsection R302.1 Exterior walls exception #1. Accessory structures less than 10 feet from a dwelling and/or less than 3 feet from a property line shall be provided with 5/8" "X" fire code sheetrock or equivalent throughout the interior, including the walls and ceiling. Any accessory structure opening(s) in wall(s) parallel to and less than 10' from dwelling unit wall(s) shall be fire rated in accordance with this code.

21. **Subsection Table R302.1 Amended - Exterior Walls.** Table R302.1, Exterior Walls, of the IRC, is hereby amended by modifying said table as follows:

Table R302.1(1), Exterior Walls

Exterior Wall Element	Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	(Fire-resistance rated)	1 hour with exposure from both sides per ASTM E 119 or UL 263
	(Not fire-resistance rated)	0 hours
Projections	(Fire-resistance rated)	1 hour on the underside
	(Not fire-resistance rated)	0 hours
Openings	Not allowed	N/A
	25% Maximum Wall Area	0 hours
	Unlimited	0 hours
Penetrations	All	Comply with Section R302.4
		None required

22. **Subsection R302.2 Amended - Townhouses.** Subsection R302.2, Townhouses, of the IRC, is hereby amended by deleting said subsection and inserting in lieu thereof the following (exception and subsequent subsections remains unchanged):

Subsection R302.2 Townhouses. Each sprinklered townhouse shall be considered a separate building and shall be separated by fire-resistance-rated



wall assemblies meeting the requirements of section R302.1 for exterior walls. Sprinkling of townhouses of not more than 12 (twelve) dwelling units, guest rooms or combination thereof with each unit being provided with a minimum of two separate means of egress and of not more than 3 (three) stories above grade plane in height, including back-to-back configurations in which two or less walls are shared, is not required when said dwelling units and/or guest rooms are constructed in accordance with separation requirements of sections R302.2 of the IRC.

23. **Subsection R302.2A Addition - Townhouses.** Subsection R302.2, Townhouses, of the IRC, is hereby established by adding the following subsection and exception:

Subsection R302.2 Townhouses. Each non-sprinklered townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls. All townhouse groups of more than twelve attached units in which each unit does not have a yard or public way on at least two sides shall be sprinklered.

Exception: A common 2 hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with the Polk City Electrical Code. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

24. **R302.3 Amended - Two-Family Dwellings.** Subsection R302.3 Two-family dwellings, of the IRC, is hereby amended by deleting said subsection and inserting in lieu thereof the following and deleting exception 2:

R302.3 Two-family dwellings. For purposes of fire-resistive separation, two-family dwelling units shall be considered as townhouses and shall be constructed in accordance with R302.2.

Exception 2 deleted

25. **Subsection R302.6 Amended - Dwelling/Garage Fire Separation.** Subsection R302.6, Dwelling/garage fire separation, of the IRC, is hereby amended by deleting said subsection and inserting in lieu thereof the following subsection:

Subsection R302.6 Dwelling/garage fire separation. The garage shall be separated throughout as required by Table R302.6. Openings in garage walls shall comply with section R302.5.

26. **Subsection Table R302.6 Amended - Dwelling/Garage Separation.** Table R302.6 Exterior Walls, of the IRC, is hereby amended by modifying said table as follows:

Table R302.6, Dwelling/garage separation

Separation	Material
From the residence & attics – common wall with garage	5/8” “X” fire code sheetrock or equivalent applied to the garage side
From all habitable rooms above the garage	5/8” “X” fire code sheetrock or equivalent – throughout garage
Structures supporting floor/ceiling assemblies used for separation required by this section	5/8” “X” fire code sheetrock or equivalent – throughout garage
Garages located less than 10 feet from a dwelling unit(s) on the same lot	5/8” “X” fire code sheetrock or equivalent – throughout garage

27. **Subsection R303.3 Amended - Bathrooms.** Subsection R303.3, Bathrooms, of the IRC, is hereby amended by deleting said subsection and inserting in lieu thereof the following subsection and also by adding the following exception:

Subsection R303.3 Bathrooms. 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.

Exception: Toilet rooms containing only a water closet and/or lavatory may be provided with a recirculating fan.

28. **Subsection 406.3.4 Amended - Separation.** Subsection 406.3.4, Separation, of the IBC, is hereby amended by deleting subsection #1 and inserting in lieu thereof the following:

Subsection 406.3.4 Separation #1. The private garage shall be separated from the dwelling unit and its attic area by means of minimum 5/8-inch type “X” fire code gypsum board or equivalent applied to the garage side. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than 5/8-inch type “X” fire code gypsum board or equivalent throughout. Garages beneath habitable rooms shall be separated by not less than 5/8-inch type “X” fire code gypsum board or equivalent throughout. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8” thick, or doors in compliance with 716.5.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Doors shall be self-closing and self-latching.

29. **Subsection R310.1 Amended - Emergency Escape And Rescue Required.** Subsection R310.1, Emergency escape and rescue required, of the IRC, is hereby amended by deleting the first paragraph of said section and inserting in lieu thereof the following:

Subsection R310.1 Emergency escape and rescue required. Basements, habitable attics and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where a window is provided as a means of escape and rescue opening from a

basement, it shall have a sill height of not more than 44 inches above the floor or landing. Where a landing is provided, the landing shall be not less than 36 inches wide, not less than 18 inches out from the exterior wall, and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the openable area of the window it serves. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section 310.3. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

30. **Subsections 1029.4 And R310.1.4 Amended - Operational Constraints.** Subsections 1029.4, Operational Constraints, of the IBC and R310.1.4, Operational constraints, of the IRC, are hereby amended by adding a new sentence and exception following these subsections:

Subsections 1029.4 and R310.1.4 Operational Constraints. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside and shall not require the removal of a sash or other component of the emergency escape and rescue opening.

Exception: Existing required emergency escape openings shall be maintained in accordance with the Polk City Property Maintenance Code and may be replaced with the same size and type of window.

31. **Subsection R310.5 Amended - Emergency Escape Windows Under Decks and Porches.** Subsection R310.5, Emergency escape windows under decks and porches, of the IRC, is hereby amended by adding a new sentence following this section:

Subsection R310.5 Emergency escape windows under decks and porches. Cantilever areas of all construction elements shall be regulated in accordance with this section.

32. **Subsection R311.7.5.1 Amended - Risers.** Subsection R311.7.5.1, Riser height, of the IRC, is hereby amended by adding the following exceptions:

Subsection R311.7.5.1 Riser height exception 2. The maximum riser height shall be 7 3/4 inches. The riser height shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch, except at the top or bottom riser of any interior stair where this dimension may deviate by a maximum of 1 inch. In no case shall the risers exceed the maximum height of 7 3/4 inches.

Subsection R311.7.5.1 Profile exception 3. The opening between adjacent treads is not limited on exterior stairs serving individual dwelling units.

33. **Subsection R311.7.8.2 Addition - Continuity.** Subsection R311.7.8.2, Continuity, of the IRC, is hereby amended by adding the following exception:

Subsection R311.7. 8.2 Continuity exception 3. Handrails within a dwelling unit or serving an individual dwelling unit shall be permitted to be interrupted

at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

34. **Subsection R313.1 Amended - Townhouse Automatic Fire Sprinkler Systems.** Subsection R313.1 Townhouse automatic fire sprinkler system, of the IRC, is hereby amended by deleting said subsection and inserting the following in lieu thereof (exception remains unchanged):

Subsection R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses containing more than 12 (twelve) dwelling units, **and not exposed on two sides, refer to 175.23 subsection R302.2A.**

35. **Subsection R313.2 Amended - One- And Two-Family Dwellings Automatic Fire Systems.** Subsection R313.2 One- and two-family automatic fire sprinkler systems, of the IRC, is hereby amended by adding the following exception:

Subsection R313.2 One- and two-family automatic fire sprinkler systems exception 2. Dwelling units in which the gross square footage of the dwelling space(s), including all floor levels whether finished or unfinished and all basement areas whether finished or unfinished (exclusive of attached garage area), does not exceed 8,000 square feet.

36. **Subsection R403.1.4.1 - Amended - Frost Protection.** Subsection R403.1.4.1, of the IRC, is hereby amended by deleting all existing exceptions and inserting in lieu thereof the following:

Subsection R403.1.4.1 Frost protection exception 1. Detached garages of light frame wood construction of 1,010 square feet or less in size and detached garages of 400 square feet or less in size of other than light frame wood construction and more than 10 feet from a dwelling or attached garage may be provided with a floating slab which shall include a thickened slab edge of a minimum 8 inches thick and tapered or squared from a width of 6 inches to 12 inches and have floors of Portland cement concrete not less than 4 inches thick. Garages areas shall have all sod and/or debris removed prior to installation of said floor.

37. **Subsection R404.1 Amended - Concrete and Masonry Foundation Walls.** Subsection R404.1, Concrete and masonry foundation walls, of the IRC, is hereby amended by adding the following paragraph:

Subsection R404.1 Concrete and masonry foundation walls lateral support. Prior to backfill and prior to a poured in place floor slab to provide bottom lateral support the following may be provided (1) a full depth (minimum 1-1/2") nominal 2" x 4" keyway may be formed into the footings to secure the bottom of the foundation wall -or- (2) 36" long vertical # 4 rebar may be embedded a minimum of 6" into the footings not to exceed 7' o.c. spacing.

38. **Subsections 1807.1.5.1 and R404.1.2.2.3 Addition - Foundation Walls For Conventional Light Frame Wood Construction.** Subsections 1807.1.5.1, Foundation Walls For Conventional Light Frame Wood Construction, of the IBC and R404.1.2.2.3, Foundation Walls For Conventional Light Frame Wood Construction, of the IRC, are hereby established by adding the following subsections and table:

Subsections 1807.1.5.1 and R404.1.2.2.3 Foundation Walls For Conventional Light Frame Wood Construction. As an alternate to the requirements of respective codes the following Table ‘Foundation Walls for Conventional Light Frame Construction’ may be used:

Table - ‘Foundation Walls for Conventional Light Frame Construction’

Height of Foundation Wall (Net measured from top of basement slab to top of foundation wall)*		Thickness of Foundation Walls		Reinforcement type and placement within Foundation Wall**	Reinforcement type and placement within Foundation Wall** (maximum 12’ span between corners and supporting cross walls.)	Type of Mortar
		Unit				
Gross	Net	Concrete	Masonry	Concrete	Masonry	Masonry
8	7’ 8”	7 ½”	8”	½”horizontal bars, placement in the middle, and near the top & bottom – ½” bars @ 6’ max. vertically	0.075 square inch bar 8’ o.c. vertically in fully grouted cells. If block is 12” nominal thickness, may be unreinforced.	Type M or S. Grout & Mortar shall meet provisions of Chapter 21 IBC
9	8’ 8”	8”	See Chapter 18 IBC	½” bars 2’ o.c. horizontally & 20” vertically o.c.	See Chapter 18 IBC	Same as above
10	9’ 8”	8”	See Chapter 18 IBC	(5/8” bars 2’ o.c. horizontally & 30” vertically o.c.)	See Chapter 18 IBC	Same as above
*Concrete floor slab to be nominal 4”. If such floor slab is not provided prior to backfill, provide 1) 36” vertical #4 rebar embedded in the footing @ maximum 7’ O.C. spacing -and/or- 2) full depth nominal 2”depth x 4”width keyway in footing						
** All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be in center of wall and meet the provisions of 18, 19, and 21 of the International Building Code.						
NOTE: Cast in place concrete shall have a compressive strength of 3,000 lbs @ 28 days. Footings shall contain continuous reinforcement of 2 – ½” diameter rebar throughout. Placement of reinforcement and concrete shall meet the requirements of Chapter 19 of the International Building Code.						
NOTE: Material used for backfilling shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the International Building Code. Where soils containing a high percentage of clay, fine silt or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.						
Note: Foundation plate or sill anchorage may be installed in accordance with the respective codes as applicable.						

39. **Section R405 Addition - Foundation Drainage.** Section R405, Foundation Drainage, of the IRC, is hereby amended by adding a new subsection as follows:

Subsection R405.3 Sump Pumps. Footing drains and drainage systems shall be discharged to a sump pump plumbed to a discharge system separated from the sanitary sewer and in accordance with the standard specifications adopted by the City Council. Exceptions may be granted by the Code Official in accordance with said engineering standards.

40. **Subsection R506.2.4 Addition - Reinforcement Support.** Subsection R506.2.4, of the IRC, Reinforcement support is hereby amended by addition of the following exception:

Subsection R506.2.4 Reinforcement support exception 1. Non-structural slabs

41. **Subsection 907.2.11 Amended - Single and Multiple-Station Smoke Alarms.** Subsection 907.2.11, of the IBC, Single and Multiple-station smoke alarms is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 907.2.11 Single and Multiple-station smoke alarms. Listed single- and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with provisions of this code and the household fire warning equipment provision of NFPA 72. Smoke alarms shall be addressable with sounder bases and tied into the building fire alarm system as a supervisory signal only. Mini horns are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases.

42. **Subsection M1403.2 Amended - Foundations and Supports.** Subsection M1403.2 Foundations and supports, of the IRC, is hereby amended by deleting said section and inserting in lieu thereof the following:

Subsection M1403.2 Foundation and supports. Foundations and supports for outdoor mechanical systems shall be raised at least one and one half inches above the finished grade and shall also conform to the manufacturer's installation instructions.

43. **Subsection P2603.5 Amended - Freezing.** Subsection P2603.5 Freezing, of the IRC, is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:

Subsection P2603.5 Freezing. Exterior water supply system piping shall be installed not less than sixty (60) inches below grade.

44. **Subsection P2603.5.1 Amended - Sewer Depth.** Subsection P2603.5.1 Sewer Depth, of the IRC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection P2603.5.1 Sewer Depth. Building sewers shall be a minimum of forty-eight (48) inches below grade.

45. **Subsection 1007.2 Addition - Continuity and Components.** Subsection 1007.2, Continuity and Components, of the IBC, is hereby amended by adding the following #11 to said subsection:

Subsection 1007.2 Continuity and Components #11. Components of exterior walking surfaces shall be hard surfaced.

46. **Section 1008 Addition - Doors, Gates and Turnstiles.** Section 1008, Doors, Gates and Turnstiles, of the IBC, is hereby amended by adding the following subsection:

Subsection 1008.1.6.1 Frost Protection. Exterior landings at doors shall be provided with frost protection.

47. **Subsection 1012.4 Addition - (Handrail) Continuity.** Subsection 1012.4, Continuity, of the IBC, is hereby amended by adding the following exception:

Subsection 1012.4 Continuity exception 5. Handrails within a dwelling unit or serving an individual dwelling unit of groups R-2 and R-3 shall be

permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

48. **Subsection 1027.5 Addition - Access to a Public Way.** Subsection 1027.5, Access to a Public Way, Of the IBC, is hereby amended by adding the following subsection:

Subsection 1027.5.1 Access to a Public Way. Components of exterior walking surfaces shall be hard surfaced.

49. **Subsection 1029.3 Amended - (Emergency Escape and Rescue) Maximum Height From Floor.** Subsection 1029.3, Maximum Height From Floor, of the IBC, is hereby amended by adding the following exception:

Subsection 1029.3 Maximum Height From Floor exception 1. Within individual units of Group R-2 and R-3 occupancies where a window is provided as a means of escape and rescue opening from a basement it shall have a sill height of not more than 44 inches above the floor or landing. Where a landing is provided the landing shall be not less than 36 inches wide, not less than 18 inches out from the exterior wall, and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the openable area of the window it serves.

50. **Subsection 1029.5 - Window Wells.** Subsections 1029.5, Window Wells, of the IBC, is hereby amended by adding the following subsection:

Subsections 1029.5.3 Window well drainage. All window wells shall be provided with approved drainage.

51. **Chapter 13 Energy Efficiency and Chapter 11 [Re] Amended - Energy Efficiency.** Chapter 13, Energy Efficiency, of the IBC and Chapter 13 [RE], Energy Efficiency, of the IRC, are hereby amended by deleting said chapters and inserting in lieu thereof the following:

Chapter 13 Energy Efficiency (IBC) and Chapter 11 (IRC). The provisions of the International Energy 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 “this code” and these regulations shall be known as the Polk City Energy Code.

52. **Table 1405.2 Addition - Minimum Thickness of Weather Coverings.** Table 1405.2, Minimum Thickness of Weather Coverings, of the IBC, is hereby amended by adding the following footnote:

Table 1405.2 Minimum Thickness of Weather Coverings footnote f. Vinyl siding shall be provided with a weather-resistant sheathing paper.

53. **Subsection 1405.14 Addition - Vinyl Siding.** Subsection 1405.14, Vinyl Siding, of the IBC, is hereby amended by adding a new subsection as follows:

Subsection 1405.14.2 Water-Resistive Barrier Required. An approved water-resistive barrier shall be provided under all vinyl siding.

54. **Subsection 1608.2 Amended - Ground Snow Loads.** Subsection 1608.2, Ground Snow Loads, of the IBC, is hereby amended by deleting said section and inserting in lieu thereof the following:

Subsection 1608.2 Ground Snow Load. The ground snow load to be used in determining the design snow load for roofs is hereby established at 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in the building code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

55. **Section 1612 Amended - Flood Loads.** Section 1612, Flood Loads, of the IBC, is hereby amended by deleting said section and inserting in lieu thereof the following section:

Section 1612.1 General Floodplain Construction Standards. The following standards are established for construction occurring within the one-hundred-year flood elevation:

A. All structures shall:

1. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure;
2. Be constructed with materials and utility equipment resistant to flood damage; and
3. Be constructed by methods and practices that minimize flood damage.

B. Residential buildings: All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the one-hundred-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the one-hundred-year flood level and extend at such elevation at least eighteen feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Code Official 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.

C. Nonresidential buildings: All new or substantially improved nonresidential buildings shall have the first floor (including basement) elevated a minimum of one foot above the one-hundred-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level.

D. 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 one-hundred-year flood; that the structure, below the one-hundred-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 mean sea level) to which any structures are floodproofed shall be maintained by the Code Official.

E. Mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements are that:

1. Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations for mobile



homes 50 feet or more in length or one such tie for mobile homes less than 50 feet in length;

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points for mobile homes 50 feet in length;

3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred pounds; and

4. Any additions to the mobile home be similarly anchored.

F. Mobile homes shall be placed on lots or pads elevated by means of compacted fill so that the lowest floor of the mobile home will be a minimum of one foot above the one-hundred-year flood level. In addition, the tie-down specification of Section 175.04.350 subsection E must be met and adequate surface drainage and access for a hauler must be provided.

G. New mobile homes, expansions to existing mobile homes and mobile home lots where the repair, reconstruction or improvement of the streets, utilities, and pads equals or exceeds fifty percent before the repair, reconstruction or improvement has commenced shall provide:

1. Lots or pads that have been elevated by means of compacted fill so that the lowest floor of mobile homes will be a minimum of one-foot above the one-hundred-year flood level;

2. Ground anchors for mobile homes.

H. 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 one-hundred-year flood level. Other material and equipment must either be similarly elevated or:

1. Not be subject to major flood damage and be anchored to prevent movement due to flood waters; or

2. Be readily removable from the area within the time available after flood warning.

#### Section 1612.2 Special floodway standards.

The following standards are established for construction occurring within a designated floodway.

A. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

B. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

56. **Subsection 1809.5 Addition - Frost Protection.** Subsection 1809.5, Frost Protection, of the IBC, is hereby amended by adding the following exception 4:

Exception 4. Detached garages, accessory to Group R-2 and R-3 occupancies, 1010 square feet or less in size of light frame wood construction and detached garages of 400 square feet or less in size of other than light frame wood construction and more than 10 feet from a dwelling or attached garage may be provided with a floating slab which shall include a thickened slab edge of a minimum 8 inches thick and tapered or squared from a width of 6 inches to 12 inches and have floors of Portland cement concrete not less

than 4 inches thick. Garage areas shall have all sod and/or debris removed prior to installation of said floor.

57. **Appendix G Adopted - Swimming Pools, Spas and Hot Tubs.** Appendix G, Swimming Pools, Spas and Hot Tubs, of the IRC, is hereby adopted by reference and shall be in full force and effect in this chapter.

58. **Subsection 3109.2 and AG102 Definition Amended - Swimming Pool.** Subsection 3109.2, Definition, of the IBC and AG102, Definitions, of the IRC, is hereby amended by deleting said definition and inserting in lieu thereof the following:

Swimming Pool. Any structure intended for swimming, recreational bathing or wading that is capable of containing water over 24 inches deep. This includes in-ground, above-ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools, but excludes manmade lakes or ponds created through the collection of storm water or drainage runoff.

59. **Section 3401.3 Amended - Compliance.** Section 3401.3, Compliance, of the IBC, is hereby amended by deleting said section and inserting in lieu thereof the following:

Section 3401.3 Compliance. Alterations, repairs, additions and changes of occupancy to existing structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy in the Polk City Fire Code, Polk City Plumbing Code, Polk City Fuel Gas Code, Polk City Property Maintenance and Housing Code, Polk City Mechanical Code, Polk City Electrical Code, Polk City Energy Code, Polk City Residential Code and the Polk City Zoning Code. The provisions of this code shall not be deemed to nullify or lessen any provisions of local, state or federal law.

(Ord. 2014-1100 – Jan. 15 Supp.)

## 155.06 MECHANICAL CODE.

1. **Short Title.** This chapter shall be known as the Polk City Mechanical Code, and may be cited as such, and may be referred to herein as this chapter.

2. **Adoption Of Mechanical Code.** The *International Mechanical Code 2012 Edition*; published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the *International Mechanical Code 2012 Edition*, as adopted and a copy of this chapter are on file in the office of the Code Official.

3. **Amendments, Modifications, Additions and Deletions.** The *International Mechanical Code, 2012 Edition* (hereinafter known as the IMC), is amended as hereinafter set out in Sections 176.04 through 176.15.

4. **Deletions.** The following are deleted from the IMC and are of no force or effect in this chapter:

Subsection 106.4.4 Extensions, Section 109 Means of Appeal.

5. **Conflicts.** In the event requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

6. **Subsection 101.1 Amended - Title.** Subsection 101.1, Title, of the IMC, is hereby deleted and there is enacted in lieu thereof the following subsection:

Subsection 101.1 Title. These regulations shall be known as the Polk City Mechanical Code, hereinafter known as “this code.”

7. **Subsection 103.1 Addition - General.** Subsections 103.1, General, of the IMC, is hereby amended by adding the following paragraph to said subsection:

Subsection 103.1 Building and Zoning Administrator. The term Code Official is intended to also mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official.

8. **Subsection 106.1.1 Addition - Permit Acquisition.** Subsection 106.1.1 Permit acquisition, of the IMC, is hereby established by adding the following:

Subsection 106.1.1 Permit acquisition.

1. Permits are not transferable. Mechanical work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Iowa Code Chapter 105. A responsible person or mechanical professional licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which they are employed only when said responsible person or “Master” has provided proof of employment or written confirmation by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Code Official upon the violation of any provision of this code.

2. A State of Iowa licensed Mechanical contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed Mechanical contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Iowa Code Chapter 105 shall perform the work for which the permit was obtained.

3. For purposes of this section, an “employee” shall be one employed by the contractor, firm or corporation for a wage or salary. A contractor may be required by the Code Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

9. **Subsection 106.2 Addition - Permits Not Required.** Subsection 106.2, Permits not required, of the IMC, is hereby amended by adding the following #9 to said subsection:

Subsection 106.2 Permits not required 9. Replacement or relocation of existing house ventilation fans, bathroom exhaust, dryer vents, window air conditioners and extension of existing supply and return ductwork.

10. **Subsection 106.4.3 Amended - Expiration.** Subsection 106.4.3 Expiration, of the IMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.4.3 12 Month Expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

11. **Subsection 106.5.2 Amended - Schedule of Permit Fees.** Subsection 106.5.2 Fee schedule, of the IMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.5.2 Fee schedule. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Polk City. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fee(s) for the additional work has been paid.

12. **Subsection 106.5.3 Amended - Fee Refunds.** Subsection 106.5.3, Fee refunds, of the IMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.5.3 Fee refunds. The Code Official is authorized to establish a refund policy.

13. **Subsection 108.4 Amended - Violation Penalties.** Subsection 108.4, Violation penalties, of the IMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 108.4 Violation penalties. 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 mechanical 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.

14. **Subsection 108.5 Amended - Stop Work Order.** Subsection 108.5, Stop Work Orders, of the IMC, is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:

Any person who shall continue any work on the system 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.

15. **Subsection 1107.2 Amended - Refrigerant Piping.** Subsection 1107.2, Refrigerant piping, of the IMC, is hereby amended by deleting the last sentence thereto.

(Ord. 2014-1200 – Jan. 15 Supp.)

#### 155.07 PLUMBING CODE.

1. **Short Title.** This chapter shall be known as the Polk City Plumbing Code, and may be cited as such, and may be referred to herein as this chapter.

2. **Adoption of Plumbing Code.** The *International Plumbing Code 2012 Edition*; published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the *International Plumbing Code 2012 Edition*, as adopted, and a copy of this chapter are on file in the office of the Code Official.

3. **Amendments, Modifications, Additions and Deletions.** *The International Plumbing Code, 2012 Edition* (hereinafter known as the IPC), is amended as hereinafter set out in Sections 178.04 through 178.24.

4. **Deletions.** The following are deleted from the IPC and are of no force or effect in this chapter:

Subsection 106.5.4 Extensions, Section 109 Means of Appeal.

5. **Referenced Codes - Conflicts.** In the event requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

6. **Subsection 101.1 Amended - Title.** Subsection 101.1, Title, of the IPC is hereby deleted and there is enacted in lieu thereof the following subsection:

Subsection 101.1 Title. These regulations shall be known as the Plumbing Code of the City of Polk City, hereinafter known as “this code.”

7. **Subsection 103.1 Addition - General.** Subsections 103.1, General, of the IPC, is hereby amended by adding the following paragraph to said subsection:

Subsection 103.1 Building and Zoning Administrator. The term Code Official is intended to also mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official.

8. **Subsection 105.2 Addition - Alternate Materials, Methods and Equipment.** Subsection 105.2, Alternate materials, methods and equipment, of the IPC, is hereby amended by adding the following subsection 105.2.1 and exception:

Subsection 105.2.1 - Uniform Plumbing Code, As Currently Adopted Edition. The Uniform Plumbing Code, as prepared and edited by the International Association of Plumbing and Mechanical Officials, as currently adopted and amended by the Plumbing and Mechanical Systems Board, Iowa Department of Public Health, is hereby approved as an alternate equivalent method for complete plumbing systems.

Subsection 105.2.1, Administration exception 1. Administrative regulations shall be as prescribed in the International Plumbing Code, 2012 Edition, as amended in this ordinance.

9. **Subsection 106.1.1 Addition - Permit Acquisition.** Subsection 106.1.1 Permit acquisition, of the IPC, is hereby established by adding the following:

Subsection 106.1.1 Permit acquisition.

1. Permits are not transferable. Plumbing work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Iowa Code Chapter 105. A plumber licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which they are employed only when said “Master” has provided proof of employment by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Code Official upon the violation of any provision of this code.

2. A State of Iowa licensed Plumbing contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed Plumbing contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Iowa Code Chapter 105 shall perform the work for which the permit was obtained.

3. For purposes of this section, an “employee” shall be one employed by the contractor, firm or corporation for a wage or salary. A contractor may be required by the Code Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefore shall be grounds for immediate revocation of any permit for the work in question.

5. Homeowners (owner/occupants) qualifying for the homestead tax exemption may acquire permits for their principal residence (not an apartment) and appurtenant accessory structures for plumbing work, not to include connection within the public right-of-way to the public main of sewer, water and storm lines.

10. **Subsection 106.5.3 Amended - Expiration.** Subsection 106.5.3 Expiration, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.5.3 12 Month Expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon

approval, permits may be extended for no more than two periods not exceeding 180 days each.

11. **Subsection 106.5.6 Amended - Retention of Construction Documents.** Section 106.5.6, Retention of construction documents, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.5.6 Retention of construction documents. One set of construction documents shall be retained by the Code Official until final approval of the work covered therein.

12. **Subsection 106.6.2 Amended - Fee Schedule.** Subsection 106.6.2 Fee schedule, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.6.2 Fee schedule. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Polk City. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fee(s) for the additional work has been paid.

13. **Subsection 106.6.3 Amended - Fee Refunds.** Subsection 106.6.3, Fee refunds, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.6.3 Fee refunds. The Code Official is authorized to establish a refund policy.

14. **Subsection 108.4 Amended - Violation Penalties.** Subsection 108.4, Violation penalties, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 108.4 Violation penalties. 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 plumbing 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.

15. **Subsection 108.5 Amended - Stop Work Order.** Subsection 108.5, Stop Work Orders, of the IPC, is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:

Any person who shall continue any work on the system 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.

16. **Subsection 305.4 Amended - Freezing.** Subsection 305.4 Freezing, of the IPC, is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:

Subsection 305.4 Freezing. Exterior water supply system piping shall be installed not less than sixty (60) inches below grade.

17. **Subsection 305.4.1 Amended - Sewer Depth.** Subsection 305.4.1 Sewer Depth, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 305.4.1 Sewer Depth. Building sewers shall be a minimum of forty-eight (48) inches below grade.

18. **Section 410.3 Addition - Substitution.** Subsection 410.3 Substitution, of the IPC, is hereby amended by adding the following exception:

Subsection 410.3 Minimum number of fixtures exception. Water coolers or bottled water dispensers in accessible locations and within accessible reach ranges may be substituted for the initial drinking fountain in business occupancies with an occupant load of not more than 30 and mercantile occupancies with an occupant load of not more than 100. (re: IBC chapter 11, T1902.1 and IPC T 403.1 footnote e)

19. **Section 605 Addition - Materials, Joints and Connections.** Section 605 Materials, joints and connections, of the IPC, is hereby amended by adding the following subsection:

Subsection 605.1.1 Underground Copper. Copper tube for underground piping shall have a weight of not less than type K.

20. **Section 703 Addition - Building Sewer.** Section 703 Building Sewer, of the IPC, is hereby amended by adding the following subsection:

Subsection 703.6 Minimum Building Sewer Size. The minimum diameter for a building sewer shall be four (4) inches.

21. **Subsection 715.1 Addition - Backwater Valves.** Subsection 715.1 Sewage Backflow, of the IPC, is hereby amended by adding the following:

Subsection 715.1 Sewage backflow exception 1. The requirements of this section shall apply when determined necessary by the Code Official based on local conditions.

22. **Subsection 901.2.1 Addition - Venting Required.** Subsection 901.2.1 Venting Required, of the IPC, is hereby amended by adding the following exception:

Subsection 901.2.1 Venting Required exception. A vent is not required on a three inch basement floor drain provided its drain branches into the building drain on the sewer side at a distance of five feet or more from the base of the stack and the branch line to such floor drain is not more than twelve feet in length.

23. **Subsection 903.1 Amended - Roof Extension.** Subsection 903.1 Roof Extension, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 903.1 Roof Extension. All open vent terminals which extend through a roof shall be terminated not less than 6 inches above the roof nor less than 1 foot from any vertical surface. Where a roof is used for any purpose other than weather protection, the vent extension(s) shall terminate not less than 7 feet above the roof.

24. **Subsection 1003.3 Amended - Grease Interceptors.** Subsection 1003.3 Grease Interceptors, of the IPC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:



Subsection 1003.3 Grease Interceptors. Grease Interceptors shall comply with the requirements of the adopted Polk City Ordinance Chapter 101.  
(Ord. 2014-1300 – Jan. 15 Supp.)

### 155.08 ELECTRICAL CODE.

1. **Short Title.** This chapter shall be known as the Polk City Electrical code, and may be cited as such, and may be referred to herein as this chapter
2. **Adoption of Electrical Code.** The *National Electric Code 2011 Edition*; published by the National Fire Protection Association (NFPA 70), is adopted in full except for such portions as may be hereinafter deleted, modified or amended. An official copy of the *National Electric Code 2011 Edition*, as adopted and a certified copy of this chapter are on file in the office of the City of Polk City
3. **Amendments, Modifications, Additions.** The *National Electric Code, 2011 Edition* (hereinafter known as the NEC), is amended as hereinafter set out in Sections 179.04 through 179.14.
4. **Referenced Codes - Conflicts.** In the event there are requirements of this code that conflict with applicable State and Federal requirements, the more stringent shall apply.
5. **Addition - Title.** Title, of the NEC is hereby established by adding the following:
 

Title. These regulations shall be known as the Polk City Electrical Code hereinafter known as “this code.”
6. **Addition - Creation of Enforcement Agency.** Creation of enforcement Agency, of the NEC, is hereby established by adding the following:
 

Building and Zoning Administrator. The term Electrical Code Official is intended to also mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official.
7. **Addition - Deputies.** Deputies, of the NEC is hereby established by adding the following:
 

Building & Zoning Administrator. There is also hereby established the position of Building & Zoning Administrator, who shall be designated by the Planning and Building Director, and when so appointed, shall be responsible for the enforcement of this code. The Building & Zoning Administrator shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title. The Building and Zoning Administrator shall have whatever additional duties the Planning and Building Director may prescribe.
8. **Article 90.2 Amended - Scope (A) Covered. (Permits Required).** Permits required, of the NEC is hereby established by adding the following subcategory (A) (5) and exceptions:
 

Permits Required. Permits shall be required for work contained within the scope of this article.

Exceptions:

1. Replacement of lighting fixtures, receptacles, switches, overcurrent protection devices of the same volt and amperage.
2. The repair or replacement of flexible cords of same volt and amperage.
3. The process of manufacturing, testing, servicing, or repairing of electrical equipment or apparatus.
4. No permit or inspections are required for electrical wiring of 50 volts or less

9. **Article 90.2.1 Addition - Permit Acquisition.** Permit acquisition, of the NEC, is hereby established by adding the following article:

Article 90.2.1 Permit acquisition.

1. Permits are not transferable. Electrical work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the Iowa Electrical Examining Board in accordance with Iowa Code Chapter 103. A responsible person or an electrician licensed by the State of Iowa Electrical Examining board as a “Master A or B” may sign and obtain a permit for the contractor for which they are employed only when said responsible person or “Master A or B” has provided proof of employment or written confirmation by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Building Official upon the violation of any provision of this code.

2. A State of Iowa licensed Electrical Contractor or Residential Contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed Electrical contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Iowa Code Chapter 103 shall perform the work for which the permit was obtained.

3. For purposes of this section, an “employee” shall be one employed by the contractor, firm or corporation for a wage or salary. A contractor may be required by the Electrical Code Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefore shall be grounds for immediate revocation of any permit for the work in question.

5. Homeowners (owner/occupants) qualifying for the homestead tax exemption may acquire permits for their principal residence (not an apartment) and appurtenant accessory structures for electrical work.

10. **Addition - Permit Expiration.** Permit Expiration, of the NEC is hereby established by adding the following:

12 Month Expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application

is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the building official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

11. **Addition - Schedule of Permit Fees.** Schedule of permit fees, of the NEC is hereby established by adding the following:

Schedule of permit fees. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Polk City. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fee(s) for the additional work has been paid.

12. **Addition - Fee Refunds.** Fee refunds, of the NEC is hereby established by adding the following:

Fee refunds. The Electrical Code Official is authorized to establish a refund policy in accordance with City policy.

13. **Addition - Stop Work Order.** Stop work order of the NEC is hereby established by adding the following sections:

Stop Work Order.

Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.

Issuance. The stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists the building official shall not be required to give notice prior to stopping the work.

14. **Article 210.8 Amended - Ground Fault Circuit-Interrupter Protection For Personnel.** Article 210.8, Ground Fault Circuit-Interrupter Protection for Personnel, of the NEC is hereby amended by adding the following exceptions:

Article 210.8 (A) Dwelling Units (2). Garages, and also accessory buildings that have a floor located at or below grade not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.

Exception No. 1 to (2): Receptacles that are not readily accessible.

Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Note: Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

Article 210.8 (A) Dwelling Units (5). Unfinished basements – for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

Exception No. 2 to (5): Receptacles that are not readily accessible.

Exception No. 3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Note: Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

(Ord. 2014-1400 – Jan. 15 Supp.)

### 155.09 FIRE CODE.

1. **Short Title.** This chapter shall be known as the Polk City Fire Code, and may be cited as such, and may be referred to herein as this chapter.

2. **Adoption of Fire Code.** The *International Fire Code 2012 Edition*, published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the *International Fire Code 2012 Edition*, as adopted, and a copy of this chapter are on file in the office of the Code Official.

3. **Amendments, Modifications, Additions and Deletions.** The *International Fire Code, 2012 Edition* (hereinafter known as the IFC), is amended as hereinafter set out in Sections 180.04 through 180.26.

4. **Deletions.** The following are deleted from the IFC and are of no force or effect in this chapter:

Subsection 102.6 Historic buildings.

5. **Referenced Codes - Amendments, Modifications, Additions and Deletions.** The remaining sections in this chapter represent amendments to the requirements contained in the IFC. In the event requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

6. **Subsection 101.1 Amended - Title.** Subsection 101.1, Title, of the IFC, is hereby deleted and there is enacted in lieu thereof the following section:

Subsection 101.1 Title. These regulations shall be known as the Polk City Fire Code, hereinafter known as “this code.”

7. **Subsection 103.1 Addition - General.** Subsection 103.1, General, of the IFC, is hereby amended by adding the following paragraph to said subsection:

Subsection 103.1 Building and Zoning Administrator. The term Fire Code Official is intended to also mean the Building and Zoning Administrator and shall hereinafter be referred to as Code Official and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official.

8. **Subsection 103.2 Addition - Appointment.** Subsection 103.2, Appointment, of the IFC, is hereby amended by adding the following paragraph to said subsection:

Subsection 103.2 – Building & Zoning Administrator. There is also hereby established the position of Building & Zoning Administrator, who shall be designated by the Planning & Building Director. The Building and Zoning Administrator shall have authority to file a complaint in any court of competent jurisdiction charging a person with the violation of this title. The Building and Zoning Administrator shall have whatever additional duties the Planning & Building Director may prescribe.

9. **Subsection 105.1.2 Addition - Types of Permits.** Subsection 105.1.2, Types of Permits, of the IFC, is hereby amended by adding the following paragraphs to said subsection:

Subsection 105.1.2 Certificate of Occupancy. A certificate of occupancy issued pursuant to provisions of the *International Building Code* may be assumed to comply with Section 1. Operational Permit.

Subsection 105.1.2 Other Permits. Building, Mechanical, Electrical and Plumbing permits issued pursuant to provisions of their respective codes may be assumed to comply with Section 2. Construction Permit.

10. **Subsection 113.3 Addition - Work Commencing Before Permit Issuance.** Subsection 113.3, Work Commencing Before Permit Issuance, of the IFC, is hereby amended by adding the following sentence after said subsection:

Subsection 113.3 Work commencing before permit issuance. Said fee shall be 100 percent of the usual permit fee in addition to the required permit fees.  
Add in Permit fees

11. **Subsection 308.1.4 Amended - Open Flame Cooking Devices.** Subsection 308.1.4, Open Flame Cooking Devices, of the IFC, is hereby amended by deleting exception 3 and inserting in lieu thereof the following:

Subsection 308.1.4 Open Flame Cooking Devices exception 3. LP- cooking devices having an LP-gas container with a water capacity greater than 47.7 pounds (nominal 20 pound LP gas capacity) shall not be located on combustible balconies, decks or within 10 feet of any combustible construction, this also includes no ember producing products.

12. **Section 506 Addition - Key Boxes (Installation Requirements).** Section 506, Key Boxes, of the IFC, is hereby amended by adding a new subsection as follows:

Section 506.3 – See City Ordinance Chapter 37.

13. **Subsection 507.5 Amended - Where Required (Fire Hydrant Spacing).** Subsection 507.5.1, Where Required, of the IFC, is hereby amended by deleting said subsection, including exceptions, and inserting in lieu thereof the following subsection and exception:

Subsection 507.5.1– Where required (fire hydrant spacing). Locate at street intersections or as approved by City subject to the following spacing:

507.5.1.1 Residential: 400 foot; maximum coverage: 86,000 SF.

507.5.1.2 Commercial: 400 foot; maximum coverage: 86,000 SF.

507.5.1.3 No part of a proposed single family dwelling or duplex shall be more than 250 feet from a hydrant unless said building is sprinklered.

507.5.1.4 No part of a multi-family, commercial or industrial building shall be more than 200 feet from a fire hydrant unless said building is fully sprinklered.

Subsection 507.5.1– Where required (fire hydrant spacing) exception: For Group R-3 and Group U occupancies and for buildings equipped with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 the distance requirements may be modified when approved by the Code Official.

14. **Subsection 907.2.11 Amended - Single and Multiple-Station Smoke Alarms.** Subsection 907.2.11, Single and Multiple-station smoke alarms, of the IFC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 907.2.11 Single and Multiple-station smoke alarms. Listed single- and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with provisions of this code and the household fire warning equipment provision of NFPA 72. Smoke alarms shall be addressable with sounder bases and tied into the building fire alarm system as a supervisory signal only. Mini horns are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases.

15. **Section 912 Addition - Fire Department Connections.** Section 912, Fire department connections, of the IFC, is hereby amended by adding a new subsection and exception as follows:

Subsection 912.1.1 Storz fire department connection. The fire department connection(s) shall be a five-inch (5") Storz type connector(s) compatible with the hose couplings currently used by the Polk City Fire Department.

Subsection 912.1.1 Storz fire department connection exception 1. A fire department connection having the standard internal threaded swivel fittings of 2 1/2 inches NST may be substituted for the five-inch Storz connection with the approval of the Code Official where system pressures may exceed hose test pressure or water supply could require an extensive hose lay to the structure.

16. **Subsection 1007.2 Addition - Continuity and Components.** Subsection 1007.2, Continuity and Components, Of the IFC, is hereby amended by adding the following #11 to said subsection:

Subsection 1007.2 Continuity and Components #11. Components of exterior walking surfaces shall be hard surfaced.

17. **Subsection 1008.1 Addition - Doors.** Subsection 1008.1, Doors, of the IFC, is hereby amended by adding a new subsection as follows:

Subsection 1008.1.6.1 Frost protection. Exterior landings at doors shall be provided with frost protection.

18. **Subsection 1009.15 Addition - Handrails.** Subsection 1009.15, Handrails, of the IFC is hereby amended by adding the following exception:

Subsection 1009.15 Handrails exception 6. Changes in elevation of four or more risers within individual units of Group R-2 and R-3 occupancies require a handrail on at least one side.

19. **Subsection 1012.4 Addition - (Handrail) Continuity.** Subsection 1012.4, Continuity, of the IFC, is hereby amended by adding the following exception:

Subsection 1012.4 Continuity exception 5. Handrails within a dwelling unit or serving an individual dwelling unit of groups R-2 and R-3 shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

20. **Subsection 1027.5 Addition - Access To a Public Way.** Subsection 1027.5, Access to a Public Way, of the IFC, is hereby amended by adding the following subsection:

Subsection 1027.5.1 Access to a Public Way. Components of exterior walking surfaces shall be hard surfaced.

21. **Subsection 1029.3 Amended - (Emergency Escape and Rescue) Maximum Height From Floor.** Subsection 1029.3, Maximum Height From Floor, of the IFC, is hereby amended by adding the following exception:

Subsection 1029.3.1 Maximum height from floor. Within individual units of Group R-2 and R-3 occupancies where a window is provided as a means of escape and rescue opening from a basement it shall have a sill height of not more than 44 inches above the floor or landing. Where a landing is provided the landing shall be not less than 36 inches wide, not less than 18 inches out from the exterior wall, and not more than 24 inches in height. The landing shall be permanently affixed to the floor below and the wall under the openable area of the window it serves.

22. **Subsection 1029.5 Addition - Window Wells.** Subsection 1029.5, Window wells, of the IFC, is hereby amended by adding a new subsection as follows:

Subsection 1029.5.3 Window well drainage. All window wells shall be provided with approved drainage.

23. **Chapter 11 Amended - Fire Safety and Means of Egress Requirements for Existing Buildings.** Chapter 11, Construction Requirements For Existing Buildings, of the IFC, is hereby amended by adding the following subsections and an effective date for these requirements in multi-family residential buildings including rental dwelling units as follows:

Subsection 1103.7.6.1 Manual Fire Alarms, Group R-2, Including Existing Multi-Family Rental Dwelling Units and Buildings - effective July 1, 2015, a manual fire alarm system shall be installed in buildings with more than 16 units in accordance with subsection 1103.7.6 of the IFC and for rental dwelling units and buildings shall be confirmed no later than the next rental registration renewal inspection thereafter.

Subsection 1103.9.1 Carbon Monoxide Alarms, Group R-2, Including Existing Multi-Family Rental Dwelling Units and Buildings – effective July 1, 2015, carbon monoxide alarms shall be installed in accordance with subsection 1103.9 of the IFC and for rental dwelling units and buildings shall be confirmed no later than the next rental registration renewal inspection thereafter.

Subsection 1104.3.1 Exit Sign Illumination, Group R-2, Including Existing Multi-Family Rental Dwelling Units and Buildings – effective July 1, 2015, exit sign illumination shall be installed in accordance with subsections 1104.3 and 1104.4 of the IFC and for rental dwelling units and buildings shall be confirmed no later than the next rental registration renewal inspection thereafter.

Subsection 1104.5 #8.1 Illumination Emergency Power, Group R-2, Including Existing Multi-Family Rental Dwelling Units and Buildings – effective July 1, 2015, illumination emergency power shall be installed in accordance with subsection 1104.3 of the IFC and for rental dwelling units and buildings shall be confirmed no later than the next rental registration renewal inspection thereafter.

24. **Section 5704 Addition - Storage (Tanks) - Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks - District Limits.** Section 5704 Storage, of the IFC, is hereby amended by adding a new subsection as follows:

Subsection 5704.1.1 - Storage of flammable or combustible liquids in outside aboveground tanks - District Limits. Storage of flammable or combustible liquids in outside aboveground tanks is prohibited in all zoning districts except M-1, M-2 and U-1 zones; provided, however, that such storage in M-1 and U-1 zones shall be limited as follows:

A. In an M-1 zoning district the maximum liquid storage capacity for any one tank shall be five hundred fifty gallons and the maximum aggregate liquid storage capacity of all tanks at any one site shall be one thousand one hundred gallons. All storage tank installations permitted under this subsection shall be limited to rear yards of the property on which such tanks are installed and shall be screened from public view; further, all such installations shall be subject to prior site plan review and approval by the Plan and Zoning Commission.

B. In a U-1 zoning district the maximum liquid storage capacity for any one tank shall be twelve thousand five hundred gallons and the maximum aggregate liquid storage capacity of all tanks at any one site shall be twenty-five thousand gallons. All storage tank installations permitted under this subsection shall be screened from view from property lines, if necessary.

C. All storage tank installations otherwise permitted under subsections A and B of this section and shall be in conformance with the NFPA, the *International Fire Code* and all other applicable federal, state and municipal statutes, rules and regulations.

25. **Subsection 5706.4 Amended - Bulk Plants or Terminals - Maximum Capacity Within Established Limits (Bulk Plants Not Allowed).** Subsection 5706.4, Bulk plants or terminals, of the IFC, is hereby amended by adding a new subsection as follows:

5706.4.0 Bulk Plants. For the purposes of Sections 1 through 3, "bulk plants" means that portion of the property where refined flammable or combustible liquids are received by tank, vessel, pipeline, tank car or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids in tank, vessel, pipeline, tank car or tank vehicle or container.



(1) Location of bulk plants with aboveground storage facilities. No new bulk plant with aboveground storage facilities shall be constructed within the city; except in the case that the facility is located on property owned by the City of Polk City.

(2) Location of bulk plants with underground storage facilities. No new bulk plant with underground storage facilities shall be constructed within any zoning district in the city except in the M-1 and M-2 zoning districts.

(3) Existing bulk plants--Subject to provisions. Any bulk plant which is in operation prior to adoption of this ordinance, may continue to remain in operation so long as it remains otherwise lawful, subject to the following provisions:

(A) No such bulk plant may be enlarged or altered in a way which would increase its storage capacity unless such additional storage capacity is installed underground.

(B) Should any of the storage facilities be destroyed by any means, the same may be rebuilt, providing that such storage facilities are installed underground.

26. **Subsection 6104.2 Addition - Maximum Capacity Within Established Limits.** Subsection 6104.2 Maximum capacity within established limits, of the IFC, is hereby amended by adding a new subsection as follows:

Subsection 6104.2.1 Bulk storage of liquefied petroleum gases. Bulk storage of liquefied petroleum gas shall be allowed only in the M-2 zoning district.

*(Ord. 2014-1500 – Jan. 15 Supp.)*

**155.10** *(Repealed by Ord. 2014-1100 – Jan. 15 Supp.)*

**155.11** *(Repealed by Ord. 2014-1100 – Jan. 15 Supp.)*

**155.12** *(Repealed by Ord. 2014-1100 – Jan. 15 Supp.)*

**155.13 FUEL GAS CODE.**

1. **Short Title.** This chapter shall be known as the Polk City Fuel Gas Code, and may be cited as such, and may be referred to herein as this chapter.

2. **Adoption of Fuel Gas Code.** The *International Fuel Gas Code 2012 Edition*; published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the *International Fuel Gas Code 2012 Edition*, as adopted and a copy of this chapter are on file in the office of the Code Official.

3. **Amendments, Modifications, Additions and Deletions.** The *International Fuel Gas Code, 2012 Edition* (hereinafter known as the IFGC), is amended as hereinafter set out in Sections 181.04 through 181.15.

4. **Deletions.** The following are deleted from the IFGC and are of no force or effect in this chapter:

Section 106.5.4 Extensions, Section 109 Means of Appeal.

5. **Referenced Codes - Conflicts.** In the event requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

6. **Subsection 101.1 Amended - Title.** Subsection 101.1, Title, of the IFGC, is hereby deleted and there is enacted in lieu thereof the following subsection:

Subsection 101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Polk City, hereinafter known as “this code.”

7. **Subsection 103.1 Addition - General.** Subsections 103.1, General, of the IFGC, is hereby amended by adding the following paragraph to said subsection:

Subsection 103.1 Building and Zoning Administrator. The term Code Official is intended to also mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official.

8. **Subsection 106.1.1 Addition - Permit Acquisition.** Subsection 106.1.1 Permit acquisition, of the IFGC, is hereby established by adding the following:

Subsection 106.1.1 Permit acquisition.

1. Permits are not transferable. Fuel Gas work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Iowa Code Chapter 105. A responsible person or mechanical professional licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which they are employed only when said responsible person or “Master” has provided proof of employment or written confirmation by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Code Official upon the violation of any provision of this code.

2. A State of Iowa licensed Mechanical contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed Mechanical contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Iowa Code Chapter 105 shall perform the work for which the permit was obtained.

3. For purposes of this section, an “employee” shall be one employed by the contractor, firm or corporation for a wage or salary. A contractor may be required by the Code Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefore shall be grounds for immediate revocation of any permit for the work in question.

9. **Subsection 106.5.3 Amended - Expiration.** Subsection 106.5.3 Expiration, of the IFGC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.5.3 12 Month Expiration. Every permit issued under the provisions of this Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Code Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by Resolution of the City Council, and provided no changes have been made in plans or location. Upon approval, permits may be extended for no more than two periods not exceeding 180 days each.

10. **Subsection 106.5.6 Amended - Retention of Construction Documents.** Subsection 106.5.6, Retention of construction documents, of the IFGC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.5.6 Retention of Construction Documents. One set of construction documents shall be retained by the Code Official until final approval of the work covered therein.

11. **Subsection 106.6.2 Amended - Fee Schedule.** Subsection 106.6.2 Fee schedule, of the IFGC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.6.2 Fee schedule. Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid to the City of Polk City. An amended permit or a supplemental permit for additional construction shall not be issued until the permit fee(s) for the additional work has been paid.

12. **Subsection 106.6.3 Amended- Fee Refunds.** Subsection 106.6.3, Fee refunds, of the IFGC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 106.6.3 Fee refunds. The Code Official is authorized to establish a refund policy.

13. **Subsection 108.4 Amended - Violation Penalties.** Subsection 108.4, Violation penalties, of the IFGC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 108.4 Violation penalties. 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 Fuel Gas 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.

14. **Subsection 108.5 Amended - Stop Work Order.** Subsection 108.5, Stop Work orders, of the IFGC, is hereby amended by deleting the last sentence of said subsection and inserting in lieu thereof the following:

Subsection 108.5 Stop Work Order. Any person who shall continue any work on the system 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.

15. **Subsection 403.10 Addition - Metallic Piping Joints and Fittings.** Subsection 403.10.1, Pipe joints, of the IFGC, is hereby amended by adding a new subsection as follows:

Subsection 403.10.1.1 Welded Pipe Joints. All joints of wrought iron or steel gas piping larger than two-inch (2") standard iron pipe size and providing gas pressure of two (2) PSIG or greater shall be welded steel. All welded joints shall comply with the State of Iowa requirements and work shall be performed by certified welders.

(Ord. 2014-1600 – Jan. 15 Supp.)

#### 155.14 PROPERTY MAINTENANCE & HOUSING CODE.

1. **Short Title.** This chapter shall be known as the Polk City Property Maintenance and Housing Code, and may be cited as such, and may be referred to herein as this chapter.

2. **Adoption of Property Maintenance Code.** The *International Property Maintenance Code 2012 Edition*; published by the International Code Council, Inc., is adopted in full except for such portions as may be hereinafter deleted, modified or amended. A copy of the *International Property Maintenance Code 2012 Edition*, as adopted and a copy of this chapter are on file in the office of the Code Official.

3. **Amendments, Modifications, Additions and Deletions.** The *International Property Maintenance Code, 2012 Edition* (hereinafter known as the IPMC), is amended as hereinafter set out in Sections 177.04 through 177.19.

4. **Deletions.** The following are deleted from the IPMC and are of no force or effect in this chapter:

Section - 111 Means Of Appeal

5. **Conflicts.** In the event requirements of this code conflict with applicable State and Federal requirements, the more stringent shall apply.

6. **Section 101.1 Amended - Title.** Subsection 101.1, Title, of the IPMC is hereby deleted and there is enacted in lieu thereof the following subsection:

Subsection 101.1 Title. These regulations shall be known as the Property Maintenance and Housing Code of the City of Polk City, hereinafter known as “this code.”

7. **Subsection 102.3 Amended - Application of Other Codes.** Subsection 102.3 Application of other codes, of the IPMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions, as applicable, of the Polk City Building Code, Polk City Residential Code, Polk City Mechanical Code, Polk City Fuel Gas Code, Polk City Plumbing Code, Polk City Fire Code, the Polk City Electrical Code and the Polk City Zoning Code.

8. **Subsection 102.11 Addition - Housing Code.** Subsection 102.11, Housing Code is hereby established by adding the following subsections:

102.11.1 Housing Code. In addition to provisions of the Property Maintenance Code of the City of Polk City, this section shall be hereafter known as the city housing code and may be cited as such and will be referred to as such in this section.

102.11.2 Scope. The provisions of this section shall be deemed to apply to all dwellings or portions thereof used or designed or intended to be used for human habitation. All occupancies in existing buildings may be continued as provided in previously adopted Building Code(s) except such structures as are found to be substandard as defined in this code. Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this code shall apply to the separate portions as if they were separate buildings. Every roominghouse or lodginghouse shall comply with all of the requirements of this code applicable to dwellings.

102.11.3 Dwellings--Definition. A dwelling is any house or building or portion thereof which is occupied in whole or in part as a home or residence of one or more human beings, either permanently or transiently. No part of a building hereafter constructed as or altered into a dwelling may be occupied in whole or in part for human habitation until the issuance of a certificate by the Code Official that such part of the dwelling conforms to requirements relative to dwellings hereafter erected. The certificate shall be issued within fourteen days after written application therefore if the dwelling at the date of such application shall be entitled thereto. Such certificate shall hereafter be known as an occupancy certificate.

102.11.4 Housing inspector. The city council may designate, by resolution, the Building and Zoning Administrator and his or her representatives or designees as housing inspectors, or, the city council may, by resolution, approve certain qualified firms or persons who by training or experience are familiar with the provisions of this code to perform inspections of ~~rental~~ dwelling units in the city, to insure their compliance with this code. The inspectors appointed under the provisions of this section shall be charged with the responsibility of performing inspections of rental dwelling units in the city only, but shall not be charged with the duty of enforcing the provisions of this chapter. The Code Official shall be responsible for the enforcement of this chapter and may also make any inspections required under the provisions of this chapter.

102.11.15 Civil liability. The owner of any dwelling or of any building or structure upon the same lot with a dwelling, or of the lot, or any violation of this chapter, or where a nuisance as herein defined exists, who has been guilty of such violation or of creating or knowingly permitting the existence of such violation, or any occupant who shall violate or assist in violating any provisions of this chapter, shall also jointly and severally for each such violation and each such nuisance be subject to a civil penalty of fifty dollars to be recovered for the use of the Planning & Building Department in a civil action brought in the name of the municipality by the Code Official. Such person or persons and also the premises shall be liable in such case for all costs, expenses and disbursements paid or incurred by the Planning &

Building Department, including attorneys' fees, paid or incurred by the city, by any of the officers, agents or employees thereof, in the removal of any such nuisance or violation.

102.11.16 Additional liability. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within five days after such service, or continues to violate any provisions or requirements of this chapter in the respect named in such notice or order, shall also be subject to a civil penalty of one hundred dollars. For the recovery of such penalties, costs, expenses or disbursements, an action may be brought in a court of competent civil jurisdiction.

102.11.17 Action to enjoin. In case any dwelling, building or structure is constructed, altered, converted or maintained in violation of any provisions of this chapter or of any order or notice of the Code Official, or in case a nuisance exists in any such dwelling, building or structure or upon the lot on which it is situated, the Code Official may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation, nuisance, to prevent the occupation of the dwelling, building or structure, or to prevent any illegal act, conduct business in or about such dwelling or lot.

102.11.18 Injunction. In any such action or proceeding, the Code Official may by a petition duly verified setting forth the facts apply to the district court for an order granting the relief for which the action or proceeding is brought, or for an order enjoining any persons from doing or permitting to be done any work in or upon such dwelling, building, structure or lot, or from occupying or using the same for any purpose until the entry of final judgment or order.

102.11.19 Authority to execute. In case any notice or order issued by such Code Official is not complied with, the Code Official may apply to the district court for an order authorizing him to execute and carry out the provisions of the notice or order, to correct any violation specified in the notice or order or to abate any nuisance in or about dwelling.

102.11.23 Notice of actions. In any action brought by the Code Official in relation to a dwelling or injunction, vacation of the premises or abatement of nuisance, or to establish a lien thereon, or to recover a civil penalty, service of notice shall be in the manner provided by law for the service of original notices.

9. **Subsection 103.1 Addition - General.** Subsections 103.1, General, of the IPMC, is hereby amended by adding the following paragraph to said subsection:

Subsection 103.1 Building and Zoning Administrator. The term Code Official is intended to also mean the Building and Zoning Administrator and his or her representatives or designees, who are herewith delegated the same powers, authorities, duties and responsibilities as designated for the Code Official.

10. **Subsection 103.6 Addition - Work Commencing Before Permit Issuance.** Subsection 103.6, Work commencing before permit issuance, of the IPMC, is hereby established by adding the following subsection:

Subsection 103.6 Work commencing before permit issuance. Any person who commences any work under the provisions of this ordinance before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees.

11. **Subsection 103.7 Addition - Fee Refunds.** Subsection 103.7, Fee refunds, of the IPMC, is hereby amended by established by adding the following subsection:

Subsection 103.7 Fee refunds. The Code Official is authorized to establish a refund policy.

12. **Subsection 302.4 Amended - Weeds.** Subsection 302.4, Weeds of the IPMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 302.4 Weeds. Weeds and tall grasses shall be regulated as defined in the City of Polk City Municipal Ordinance.

13. **Subsection 304.14 Amended - Insect Screens.** Subsection 303.14, Insect Screens, of the IPMC, is hereby amended by inserting the following dates and deleting a portion of the last sentence as follows:

Subsection 303.14 Insect Screens. (from date) April 1 (to date) October 31  
Delete: and every screen door used for insect control shall have a self-closing device in good working condition.

14. **Subsection 403.5 Addition - Clothes Dryer Duct.** Subsection 403.5, Clothes dryer duct, of the IPMC, is hereby amended by adding the following subsection:

Subsection 403.5.1 Clothes Dryer Duct. Transition ducts, in ~~rental~~ dwelling units and buildings, used to connect the dryer to the exhaust duct system shall be a single length that is listed and labeled in accordance with UL 2158A. Transition ducts shall be a maximum of 8 feet (2438 mm) in length and shall not be concealed within construction.

15. **Subsection 404.4.1 Amended - Room Area.** Subsection 404.4.1, Room Area, of the IPMC, is hereby amended by deleting said subsection and inserting in lieu thereof the following:

Subsection 404.4.1 Room area. Every living room shall contain at least 120 square feet and every bedroom shall contain at least 70 square feet. Where more than two persons occupy a bedroom the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

16. **Subsection 602.3 Amended - Heat Supply.** Subsection 602.3, Heat supply, of the IPMC, is hereby amended by inserting the following dates:

Subsection 602.3 Heat supply. (from date) September 15 (to date) May 15

17. **Subsection 602.4 Amended - Occupiable Work Spaces.** Subsection 602.4, Occupiable work spaces, of the IPMC, is hereby amended by inserting the following dates:

Subsection 602.4 Occupiable work spaces. (from date) September 15 (to date) May 15

18. **Subsection 605.2 Addition - Receptacles.** Subsection 605.2, receptacles, of the IPMC, is hereby amended by adding the following exception and subsequent subsection:

Subsection 605.2.1 Receptacles. All 125-volt, single phase, 15- and 20-ampere receptacles, within six feet of water sources shall be provided with ground fault circuit interrupter protection.

*(Ord. 2014-1700 – Jan. 15 Supp.)*

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## CHAPTER 156

# PERMITS AND FEES

156.01 General Provisions  
156.02 Exemptions From Permits  
156.03 Platting and Outlots  
156.04 Contractor Registration

156.05 ADA  
156.06 Supplemental Inspection  
156.07 Permit Fees

### 156.01 GENERAL PROVISIONS.

1. Issuance. Upon application and approval by the Building Official, and payment of all fees provided for herein, the Clerk shall issue permits, as set forth in this chapter, to persons authorized by the City to perform the work specified in said permit.
2. Expiration. Any permit issued under the provisions of this chapter may be revoked by the Building Official. Every permit issued under the provisions of this chapter shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within sixty (60) days from the date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty (120) days. Before such work can recommence, a new permit shall be first obtained, and the fee therefor shall be one-half (1/2) of the amount required for a new permit for such work, provided that such suspension or abandonment has not exceeded one year.
3. Additional Work. When a permit has been issued for any purpose provided for in this chapter, in no case shall additional work be put in or additional fixtures set without the approval of the Building Official, and a new permit shall be obtained for all such additional work or construction.
4. Failure To Obtain a Permit.
  - A. Except in emergency situations, as determined by the Building Official, where a permit is required by this chapter and work is commenced by any person prior to obtaining the required permit, the regular fees as specified in this chapter for such work shall be doubled. The payment of such double fees shall not relieve any person from fully complying with the requirements in the execution of the work or from being subject to any other penalties prescribed herein. However, no double fees shall be imposed upon any person who starts work without a permit if:
    - (1) Said work is started on a Saturday, Sunday or holiday; and
    - (2) Such person secures the proper permit on the next working day.
  - B. No additional permit shall be issued to any person who owes the City the double fee described in this section.
5. Payment of Fees. All fees provided for herein shall be paid to the Clerk who shall issue a receipt therefor, and such receipt shall be presented to the Building Official for any permits that are issued to any person applying therefor.

**156.02 EXEMPTIONS FROM PERMITS.**

1. The Council may, upon receipt of timely application, exempt the following classes of applicants for building permits from payment of the permit fees prescribed herein:
  - A. Literary, scientific, charitable, benevolent, agricultural and religious societies or organization.
  - B. Educational associations.
  - C. Instrumentalities or agencies or political subdivisions of any state or federal government.
2. To qualify for an exemption from the payment of permit fees, the applicant must demonstrate, to the satisfaction of the Council, bona fide membership in one of the exempt classes named in subparagraphs A, B and C hereof and that such membership was not alleged or obtained for the exclusive purpose of avoiding payment of such permit fee. Such applicant must further demonstrate to the satisfaction of the Council that the building or other proposed structure or improvement for which exemption from payment of permit fees is sought, will be used exclusively for the appropriate objects of the applicant and not for pecuniary profit.
3. Persons performing work for the Federal government or any political subdivision of the State of Iowa may obtain permits for such work without paying the permit fees described herein.
4. An engineer or architect shall certify that construction, at completion, conforms to all applicable City Building Codes.

**156.03 PLATTING AND OUTLOTS.** A building permit shall not be issued unless the land upon which the proposed work is to be done is platted pursuant to the provisions of the Subdivision Regulations. Such platting may be waived by the Council if that body determines that no portion needed for public purposes as determined by the Council is dedicated to the City; provided, further, such platting may be waived by the Building Official, if the requested building permit is for one of the following reasons:

1. An accessory structure or addition for a one or two family residence; or
2. The removal, repair or alteration of a structure on unplatted premises; provided that there is no change in the use classification of such structure.
3. The term "alteration" shall be deemed to mean any change or modification of a structure that does not serve to increase the size of the structure, as originally built and not modified, by more than ten percent (10%).
4. A building permit shall not be issued permitting the construction of any building or other structure on any lot designated on any plat as an outlot, without such lot being replaced in accordance with the provisions of the Subdivision Regulations.

**156.04 CONTRACTOR REGISTRATION.** Any contractor applying for any permit required to be obtained under the provisions of this chapter shall, at the time of application, provide the registration number issued by the Iowa Division of Labor.

**156.05 ADA.** The City shall distribute to each applicant for a building permit a written notice informing the applicant that his or her project may be subject to the provisions of the

Americans With Disabilities Act (ADA). The notice shall advise the applicant that the applicant is solely responsible for determining whether, and to what extent, the ADA may be applicable to such project. The City shall have no, and expressly disclaims any, responsibility for determining whether or to what extent any construction project may be subject to ADA requirements and neither the existence of this provision nor the issuance of any building or other permit by the City shall be interpreted or construed as any representation that the project for which such permit is issued is, or is not, subject to, or in compliance with, the terms and provisions of the ADA.

**156.06 SUPPLEMENTAL INSPECTION.** For the purposes of this chapter, the term “supplementary inspection” shall be defined as the provision of inspection or engineering services by persons employed by the City, in addition to regular inspections provided for by the ordinances of the City on account of, or at the request of, any owner or developer of real property located within the City. Prior to the provisions of any supplementary inspection or engineering services by the City, the owner or developer of property requesting such services shall agree in writing to pay all costs incurred by the City on account of such supplementary inspection or engineering services.

**156.07 PERMIT FEES.**

1. Permit Fee Required. A fee for each permit shall be paid to the Clerk prior to commencing construction.
2. Determination of Value. The determination of value or valuation under the provisions of this chapter shall be made by the Building Official or Public Works Director. The valuation to be used in computing the permit fee shall be the total value of all construction work for which, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems, and any other permanent work or permanent equipment based upon the latest valuation data sheet as published by the ICBO Standards.
3. Expiration of Plan Check. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation and plans submitted for checking may thereafter be returned to the applicant or destroyed. The Clerk may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan check fee.
4. Fees. All permit fees shall be in accordance with the fee schedules as established by resolution of the Council.

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## CHAPTER 157

### SITE PLAN

157.01 Purpose and Scope	157.06 Council Action
157.02 Site Plan Submittal	157.07 Site Plan Certificate
157.03 Site Plan Requirements for One- and Two-family Residential Dwellings	157.08 Design Standards
157.04 Site Plan Requirements for Other than One- and Two-family Residential Dwellings	157.09 Architectural Standards
157.05 Appeals	157.10 Lighting Standards Generally Applicable
	157.11 Approval and Penalties

**157.01 PURPOSE AND SCOPE.** It is the intent and purpose of this chapter to establish a procedure by which the City can review proposed improvements of property within a specified zoning district. The site plan requirements of this chapter are designed to aid the Polk City Building Department, Planning and Zoning Commission and the Council in issuing building permits, promoting the most beneficial relation between the uses of land and the circulation of traffic throughout the City, encourage adequate provisions for surface and subsurface drainage, to insure that the proposed facilities shall meet the existing City zoning and building requirements, and to insure the availability and capacity of public facilities for the proposed installation.

#### **157.02 SITE PLAN SUBMITTAL.**

1. A site plan shall be submitted as outlined in this chapter for all proposed improvement installations, including new building construction, building addition construction, accessory building construction, parking facilities construction, for proposed or existing structures and sites in any of the zoning districts.
2. Any person proposing to construct a new or an addition to a one- or two-family residential dwelling, accessory building or site improvement for such dwellings in any zoning district shall prepare and submit to the City a site plan as required in Section 157.03 of this chapter.
3. Any person proposing the construction of structures or improvement facilities other than a new or addition to a one- or two- family residential dwelling, accessory building, parking or site improvement for such dwelling in any zoning district, shall prepare and submit to the City a site plan as required in Section 157.04 of this chapter.

**157.03 SITE PLAN REQUIREMENTS FOR ONE- AND TWO-FAMILY RESIDENTIAL DWELLINGS.** The Planning and Zoning Commission shall not review plans of single-family detached or two-family residential dwellings unless requested by the Building Inspector. When so requested, completed plans for single-family detached or two-family residential dwellings shall be provided to the Planning and Zoning Commission at least five (5) business days in advance of their regularly scheduled meeting. Single-family or two-family residential dwellings that are part of a townhome or condominium development shall be required to comply with Section 157.04 of this chapter.

**157.04 SITE PLAN REQUIREMENTS FOR OTHER THAN ONE- AND TWO-FAMILY RESIDENTIAL DWELLINGS.**

1. Procedure. Any person proposing to develop, improve or alter any tract or parcel of land within any district by construction of facilities other than one- and two-family residential dwelling units shall prepare and submit to the Planning and Zoning Commission a site plan together with the required filing fee according to a schedule adopted from time to time by resolution of the City Council.

The applicant shall submit three (3) copies of the site plan to the City Clerk no less than fifteen (15) days prior to the Planning and Zoning Commission (P&Z) meeting at which any action is to take place. The Clerk shall deliver copies to the City Engineer and the City Building Department for review and comments. The City Engineer and the City Building Department shall review such plan for conformance with these site plan requirements. Their review, comments and recommendations shall be provided to the applicant and presented at the next following regular Planning and Zoning Commission meeting. The applicant shall submit ten (10) copies of the site plan, revised if necessary to address review comments, to the City Clerk no less than five (5) days prior to said P&Z meeting for delivery to the Planning and Zoning Commission.

2. Planning and Zoning Action. Following the Engineer's and Building Department's review, the Planning and Zoning Commission, at its next regular meeting, shall approve the site plan as submitted if the same conforms to all State and local regulations and ordinances. If the site plan fails to conform to all State regulations and applicable ordinances, the Commission shall state the reasons for its disapproval and shall return a copy to the applicant for revision in accordance with the action taken. The applicant shall then submit the revised copy to the Building Department and City Engineer for their review and comments for presentation at the next regular Planning and Zoning Commission meeting. Upon approval by the Planning and Zoning Commission, the site plan shall be presented to the Council at its next regular meeting.

3. Payment of Costs. In addition to any other fees set out in this chapter, the applicant shall be responsible for just and reasonable costs incurred by the City during the course of the site plan approval for work deemed necessary by the City to assure proper construction in accordance with applicable standards and ordinances.

4. Required Information. Site plans which are submitted for review shall be drawn to a scale of 1" = 50' or larger and shall include as a minimum the following information:

A. Narrative Information:

- (1) Name which the development or improvement shall be called.
- (2) Name and address of the owner of the property.
- (3) Name and address of the developer or builder.
- (4) Name and address of person or firm preparing the site plan.
- (5) Address of the site.
- (6) Legal description of the site, including area.
- (7) Present zoning classification of the site.

- (8) Proposed zoning of the site.
  - (9) Existing land use of the site.
  - (10) Future land use of the site, based on the Comprehensive Plan.
  - (11) Development schedule with approximate starting date, staging of development and completion dates.
  - (12) Total area of the proposed site.
  - (13) Total number and types of all buildings with:
    - a. Number of stories of each existing or proposed building.
    - b. Total floor area of each building.
    - c. Total number and types of dwelling units.
    - d. Estimated number of employees for each proposed use where applicable.
  - (14) Total number of parking spaces required per Section 165.15 and 165.16, with parking calculations for each use on the property.
  - (15) Total number of parking spaces proposed in the site plan, including the required handicap accessible stalls.
  - (16) Percentage of open space required, if any, according to Section 165.06.
  - (17) Total area in square feet of the portion of the property devoted to buildings, pavements, and green space along with the percentage of each in relation to the total area of the site.
  - (18) Total number of trees required, with calculations for open space planting, parking area landscaping and buffer screens, according to Section 165.17.
  - (19) Evidence concerning the effect of the project on surrounding property.
- B. The following items are to be shown in illustration on the site plan:
- (1) A vicinity sketch at a suitable scale showing the general location of the property, existing land uses adjoining the property, and adjacent existing facilities such as buildings, parking lots, etc.
  - (2) A certification by a licensed land surveyor shall be on or accompany the site plan, showing that the dimensions and bearings on the property lines are accurately shown.
  - (3) All existing utilities shall be shown, including location, size and capacity of existing public utilities.
  - (4) Proposed connections to existing utilities.
  - (5) Existing buildings, right-of-ways, street improvements, railroads, easements, drainage courses, streams and wooded areas shall be shown.

- (6) Building setback lines required by the zoning district and the average setback of buildings within 200 feet of the proposed building where applicable.
- (7) Location, grade and dimension of all existing and proposed paved surfaces, including private streets, driveways, parking areas, sidewalks, stoops, utility pads, and recreation trails.
- (8) Traffic circulation and parking plans showing the location and dimensions of all existing and all proposed parking stalls, loading areas, entrances and exit drives, dividers, planters and frontage roads, and other similar permanent improvements.
- (9) Location and type of any existing and proposed signs, including dimensions and elevations of proposed signage.
- (10) Location and type of any existing or proposed lighting.
- (11) Location of existing trees six (6) inches or larger in diameter.
- (12) Location of all proposed trees, shrubs, and landscaping beds, along with a plant schedule. Required deciduous trees shall be no less than 1½ " caliper; required coniferous trees shall be no less than 6 feet tall at planting.
- (13) Location, amount and type of any proposed landscaping, fences, walls or other screening and materials to be used.
- (14) Location, size and detail of all solid waste enclosures.
- (15) All existing and proposed sidewalks and pedestrian traffic facilities.
- (16) Existing contours at two-foot intervals and in no case shall there be less than two (2) contours shown.
- (17) Proposed elevations of structures, improvements, proposed contours and any temporary or permanent erosion control measures.
- (18) Site plan shall include a Storm Water Management plan certified by a professional engineer licensed in the State of Iowa to show the area, slopes, runoff calculations, detention calculations, and pipe size and velocity calculations for the site. This plan shall also indicate the connections to existing storm sewers or drainage ditches and the courses surface water shall take for exit from the property.
- (19) Type and location of all proposed paved surfaces.
- (20) Site plan shall include building elevations for all facades of each building with sufficient information to demonstrate compliance with the Building Code for permanency and strength of materials in proportion to the aesthetic characteristics. Such evidence should include architectural building elevations showing the architectural character, type of materials, and indication of colors.
- (21) The Council reserves the right to condition any project in any reasonable manner that they deem necessary to ensure compatibility with the surrounding properties in order to promote quality development.



**157.05 APPEALS.** If the site plan is disapproved, the applicant may, upon written application to the Planning and Zoning Commission, appeal in whole or in part any condition or requirement the Commission would require for its approval. The application for appeal and the site plan as submitted shall be presented to the Council at its next regular meeting for action. The application for appeal must include specific reasons and conditions that exist for variance from the applicable codes or ordinances and variations from the Planning and Zoning Commission recommendations.

**157.06 COUNCIL ACTION.** Upon submittal to the Planning and Zoning Commission, the Council, at its regular meeting, shall review the Commission's recommendations for disapproval, accompanied with the applicant's appeal request. The Council shall also review the Building Department and City Engineer's review, comments and recommendations. The Council shall thereupon take action either approving or disapproving the site plan. Upon approval, the Council shall direct the Building Department to issue the proper building permits. The applicant shall submit a copy of the approved site plan on a reproducible medium to the City Engineer. A site plan that has been denied by the Planning and Zoning Commission and the Council may be resubmitted to the Planning and Zoning Commission by the applicant with respect to the terms of this chapter and upon payment of the appropriate fees.

**157.07 SITE PLAN CERTIFICATE.** All site plans required under this chapter, when submitted, shall be accompanied by a certification from a licensed engineer or architect.

**157.08 DESIGN STANDARDS.** The design standards provided herein are to insure the orderly and harmonious development of property in such a manner as will safeguard the public's health, safety and general welfare. All site plans submitted shall conform to the Statewide Urban Design and Specifications (SUDAS) and the following..

1. The design of the proposed development shall make adequate provisions for surface and subsurface drainage for connections to storm sewer lines, so designed to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjoining or surrounding property. Provisions shall be in compliance with SUDAS, Chapter 2-Stormwater, including requirements for detention. Single-family and two-family residential development within the A-1, R-1, R-1A, R-2, and R-2A zoning districts may be exempt from this requirement as determined by the City Engineer. Development in the R-3, R-4, and all commercial (C), industrial (M), and planned unit development (PUD) districts shall meet above referenced criteria unless it can be demonstrated to the City Engineer that a lack of detention will not increase the danger of erosion, flooding, landslide or other endangerment of adjoining surrounding property.
2. The proposed development shall be designed and located within the property in such a manner as not to unduly diminish or impair the use and enjoyment of adjoining property and to this end shall minimize the adverse affect on such adjoining properties from automobile headlights, illumination of required peripheral yards, refuge containers, and imperilment of light and air. For purposes of this section, the term "use and enjoyment of adjoining property" means the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term "use and enjoyment of adjoining property" means those uses permitted under the zoning district in which adjoining property is located.

3. The proposed development shall conform to all applicable provisions of the Polk City Building Codes, ordinances and Urban Design Standards and Urban Standard Specifications.
4. The proposed development shall have such entrances and exists upon adjacent streets and such internal traffic circulation pattern as will not unduly increase congestion on adjacent surrounding public streets.
5. All electrical, telephone and other public utilities shall be placed underground where required under applicable subdivision regulations or wherever installation of the same is reasonably practicable.
6. The proposed development shall be in conformity with the standards of the comprehensive plan and with recognized principles of civic design, land use planning and landscape architecture.
7. All lighting in connection with the proposed development shall conform to the Urban Design Standards and Urban Standard Specifications and the following:
  - A. General Standards.
    - (1) Manufacturer's cut sheets including foot-candle contours, light fixture details, and bulb wattage are required for all light fixtures on the site.
    - (2) Flashing or pulsating lights, moving lights, high intensity lights, strobe lights or rotating beacons shall be prohibited out of doors or visible from the outdoors and all zoning districts except when otherwise legally displayed as emergency lights or warning lights.
    - (3) Any use of neon lights shall be designed in harmony with the surrounding area and in an aesthetically sound manner.
    - (4) The park and recreational department is exempt from the lighting policy.
  - B. Parking Lot Lights. Parking lot lights shall be in accordance with SUDAS, Chapter 11-Street Lighting. All lighting used to illuminate off-street parking areas shall be so shielded or otherwise optically controlled so as to provide glareless illumination in such manner as not to create a nuisance to adjacent residentially-zoned property. Forward-throwing floodlights are not allowed. Fixtures shall be shoebox-style with a maximum bulb wattage of 250 watts unless otherwise specifically approved by City Council.
  - C. Building Lights.
    - (1) Wall Pack Lights.
      - (a) Wall pack lighting is allowed; however, such lighting may not be a forward-throwing flood light. Further, wall pack lights are not permitted on the wall of any nonresidential building that faces an R-1 or R-2 district.
      - (b) The maximum bulb wattage shall be 150 watts.

- (2) Canopy Lights.
  - (a) The maximum bulb allowed underneath a canopy is 250 watts.
  - (b) An isometric map is required illustrating average foot-candles across the entire site, particularly under the canopy. The average illumination must be less than 50 foot-candles under the canopy. The maximum illumination under the canopy must be 70 foot-candles. However, the canopy height is reviewed by staff and taken into consideration when reviewing the illumination on the site.
- (3) Soffit Lights.
  - (a) Soffit lighting is allowed but must be entirely contained within the soffit itself. No bulb can be visible.
  - (b) A maximum 150 watt bulb is allowed for soffit lighting.
- (4) Gooseneck Lights. For the purposes of down-lighting only, gooseneck lighting is allowed when the bulb itself is not visible and the wattage of the bulb is low.

D. Site Lighting.

- (1) The use of flood lights is not encouraged but is allowed as up-lighting only for the purpose of illuminating items such as flag poles or the building itself. The flood light fixture must be screened from view with landscape materials.
- (2) Lighting bollards with diffusers are allowed.

**157.09 ARCHITECTURAL STANDARDS.** The requirements, guidelines and standards set forth in this section shall apply to any development or redevelopment of property within the zoning districts listed in Section 165.04 of this Code of Ordinances and within the City.

1. Statement of Intent. In the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important. It is recognized that a community should be visually attractive, as well as financially prosperous and the manner in which a use is accomplished is as important as the use. The quality of architecture and building construction is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings and the promotion of the image of the community and the general welfare of its citizens. Architectural design and use of materials for the construction of any building shall be subject to the approval of the Council upon input and recommendations of the Planning and Zoning Commission.

2. Architectural Standards by Zoning District and Use. Architectural plans for buildings shall be submitted simultaneously with an application for site plan review as required in this chapter. Documentation to be submitted shall include building elevations showing the building's design and exterior materials and any other information as deemed necessary to make a recommendation for approval. Detailed information relating to any lighting or signage on the structure shall be provided,

including backlit material or accent lighting and shall be in conformance with Chapter 166 of this Code of Ordinances. The architectural design shall be in accordance with the standards as contained in this section and shall be in compliance with the following general provisions:

- A. The architectural theme of any development within a C-2, C-3 or C-4 District shall be dominated with permanency and strength of materials in proportion to the aesthetic characteristics of the architectural bulk, shape, materials and color, and shall be compatible with other structures within the immediate surrounding development area and the zoning district. The buildings within this district, both as principal permitted uses and accessory uses, shall be designed and constructed with such materials as may be necessary in order to assure durability, permanency and continued aesthetic quality. The general manner in which any use and development is accomplished shall be compatible to and in harmony with the character of the zoning district as established or proposed. Existing or potential land use conflicts shall be avoided through proper orientation, open space, setbacks, landscaping and screening, grading, traffic circulation and architectural compatibility.
  - B. Canopies, awnings and similar portico coverings for windows walkways are encouraged for added architectural character.
  - C. Pitched roofs with gables, hips, dormers and similar offsetting and intersecting roof lines are desirable for increased architectural interest.
3. Quality of Construction.
- A. Wall Area Defined. In the application of these requirements, some standards are based upon a percentage of the wall area. The wall area is defined as the total square footage of the exterior elevation of the building, excluding glass that is vertical to the ground. It shall contain a gable end or dormer in the same plane of view. It does not contain the elevation area of a pitched or mansard roof, but would include the area of a parapet wall. The non-glazed area of all doors, including overhead doors, shall be considered part of the total wall area. Each elevation must comply with the standards unless otherwise provided for herein or as amended or approved by the Council.
  - B. In the C-TS District, all building facades facing a public street shall have a minimum of 75% of the wall area constructed of brick or an acceptable alternative as defined herein. All building facades not facing a public street shall have a minimum of 50% of the wall area constructed of brick or acceptable alternative.
  - C. In the C-1, C-2, C-3 and C-4 Districts, for all non-single-family or two-family residential buildings, all building facades facing a public street shall have a minimum of 60% of the wall area constructed of brick or an acceptable alternative as defined herein. All facades of such buildings that are not facing a public street shall have a minimum of 50% of the wall area constructed of brick or acceptable alternative.
  - D. In PUD Districts, architectural design standards, including the percentage of brick required for various building types and facades, shall be as approved with the PUD Master Plan and/or rezoning ordinance.

E. In the R-2 District, for all non-single-family or two-family residential buildings, all residential building facades facing a public or private street shall have a minimum of 15% of the applicable wall area constructed of brick or an acceptable alternative as defined herein.

E-1. In the R-2A District, for all non-single-family or two-family residential buildings containing four (4) or fewer dwelling units, all building facades facing a public or private street shall have a minimum of 15% of the applicable wall area constructed of brick or an acceptable alternative as defined herein. For all non-single-family or two-family residential buildings containing more than four (4) dwelling units, all building facades facing a public or private street shall have a minimum of 30% of the applicable wall area constructed of brick or an acceptable alternative as defined herein.

F. In the R-3 District, for all non-single-family or two-family residential buildings containing four (4) or fewer dwelling units, all building facades facing a public or private street shall have a minimum of 15% of the applicable wall area constructed of brick or an acceptable alternative as defined herein. For all non-single-family or two-family residential buildings containing more than four (4) dwelling units, all building facades facing a public or private street shall have a minimum of 30% of the applicable wall area constructed of brick or an acceptable alternative as defined herein.

G. For all nonresidential buildings in residential districts (other than permitted accessory structures), all building facades facing a public or private street shall have a minimum of 60% of the applicable wall area constructed of brick or an acceptable alternative as defined herein. All facades of such buildings that are not facing a public or private street shall have a minimum of 50% of the applicable wall area constructed of brick or acceptable alternative. Exceptions may be recommended to the Council by the Planning and Zoning Commission to preserve any existing architectural theme or historical ambiance, which may or may not be approved by the Council.

*(E – G - Ord. 2013-100 – April 13 Supp.)*

4. Acceptable Finish Materials for Exterior Building Walls.

A. Acceptable Materials. For the purposes of this section, the following materials are deemed sufficient to provide for permanency and strength of materials in proportion to the aesthetic characteristics of architectural bulk, shape and materials:

- (1) Brick, stone, marble, granite and other similar masonry veneers and fascia.
- (2) Glass and glass window panel systems.
- (3) Aluminum, steel, vinyl, fiber cement board, and similar lap siding when in character with the architectural characteristics of the structure.
- (4) Textured, fluted or similar exposed concrete block masonry materials.
- (5) Textured, concrete tilt-up panel construction systems.
- (6) Stucco and staccato board and trim.

(7) Exceptions to the above may be granted by the Council in order to be in character with surrounding development.

B. Acceptable Alternative Materials Where Brick is Required. On exterior walls, where a percentage of the wall area is required by this section to be constructed of brick or an acceptable alternative, the acceptable alternatives are defined as follows:

- (1) Brick, including thin brick veneer systems.
- (2) Stone, including marble, granite, or cultured stone.
- (3) Architectural concrete or stone panels.
- (4) Architectural steel panels.
- (5) Textured concrete block.

C. Unacceptable Materials. The following are not deemed sufficient to provide permanency and strength of materials in proportion to the aesthetic characteristics of the architectural bulk, shape and materials when not specifically a part of an approved architectural character or theme:

- (1) Plywood and similar sheet, untextured wood coverings.
- (2) Particle board, pressed board and similar composite siding materials.
- (3) Common concrete block when used for exterior fascia, whether painted or not.
- (4) Vertical steel siding.

5. Additional Architectural Elements. In order to reduce the negative aesthetic impacts of large buildings, additional architectural elements shall be incorporated into the overall building design and shall incorporate the following:

A. Non-single-family buildings proposed in residential districts shall incorporate residential design elements such as pitched roofs, dormers, cupolas, or other similar roof elements into the building design in order to minimize the aesthetic impact of the differing uses.

B. Multiple-family buildings shall be designed in a manner compatible with residential uses in the vicinity. Architectural design for multiple-family buildings shall attempt to lessen the plainness of appearance, which can be characteristic of large residential buildings. Multiple-family buildings with plain walls and boxy appearance are not encouraged. Their architectural design shall use a combination of the following design techniques, as appropriate:

- (1) Exterior building materials shall employ a variety of textures and colors and window and door details and be in compliance with paragraphs F and G of subsection 2 of this section, as applicable.
- (2) The roof shall be principally of gable, hip style or similar residential design.
- (3) The structures' perimeter shall vary when multiple buildings are proposed.

C. Buildings proposed in commercial districts that are adjacent to residential developments are recommended to include an articulated roofline, giving emphasis to architectural elements that will help divide the mass of a large building into smaller, identifiable pieces. Flat roof buildings shall not be encouraged. Building architectural design within these districts, and including PUD Districts constituting similar uses, shall recognize the importance of material strength and permanency through the selection of building materials, and the principle of structural strength and permanency shall dominate the structural and exterior materials and components in compliance with subsection 2 of this section.

D. Buildings shall not be designed or orientated to expose loading docks, service areas, HVAC elements, garbage dumpsters, or nonresidential overhead doors to the public right-of-ways.

(1) Buildings proposed in commercial districts adjacent to residential developments or districts shall not be designed or orientated to expose HVAC elements, garbage dumpsters, or nonresidential overhead doors toward the adjacent residential developments or areas.

(2) If it is not feasible to design or orient the loading docks, service areas, or similar operations away from the residential developments, areas or public right-of-ways, additional landscape buffering, screening walls, fences, and setbacks may be recommended by the Planning and Zoning Commission to the Council which may or may not approve the recommendation.

E. Screening shall be provided for roof-mounted HVAC units to conceal such units from public view.

6. General Provisions. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. The Council, in its sole discretion and after receiving a recommendation from the Planning and Zoning Commission, may approve additional primary materials on a case-by-case basis, provided that such materials exhibit the structural strength and permanency desired, contain sufficient architectural relief, and do not detract from the desired aesthetic character of the building and the surrounding area. All projects except detached single-family residences shall file with the City all interior and exterior dimensional plans digitally in an ARCVIEW compatible format or in a format compatible with the City's current software.

**157.10 LIGHTING STANDARDS GENERALLY APPLICABLE.** The lighting design standards set forth in Section 157.08(7) are applicable to any proposed modification, change, erection or construction of lighting on any property within the City after the effective date of this chapter whether or not such change, modification, erection or construction is made or proposed in connection with a development of property for which the submission of a site plan is required. It is the intent and purpose of this provision that all lighting in the City conform with the provisions of Section 157.08(7).

**157.11 APPROVAL AND PENALTIES.**

1. No building permits shall be issued for any building or development construction that is subject to this chapter until a site plan has been submitted and approved for each development in accordance with this chapter. No certification of occupancy shall be issued for such construction or development until all terms and conditions of the approved site plan have been satisfactorily completed or provided for with the approval of the City.

2. Construction, grading or other development activities for those uses listed above shall be carried out only in substantial compliance with the approved site plan and any conditions or restrictions attached thereto. Except for the construction contemplated and approved as a part of the site plan, there shall be no construction within the development area unless the person proposing such construction shall have first obtained approval of the Planning and Zoning Commission. Any application for approval of subsequent construction shall be accompanied by a fee in accordance with the fee schedule established by resolution of the Council.

3. A site plan shall become effective upon approval by the Council, pursuant to this chapter. The approval of any site plan required by this chapter shall remain valid for one year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter "actual construction" means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of additional building permits, letting of contracts, grading of the property, or stockpiling of materials on the site do not constitute actual construction. Site plans without on-going construction activity on the site plan improvements for a period of one year shall expire and terminate unless the Council has, upon written notice by the developer, granted an extension for a period not to exceed one additional year.

4. Appropriate actions and proceeding may be taken by law or in equity to prevent any violations of these regulations, to prevent unlawful construction, to recover damages, to restrain, to correct or abate a violation, to prevent illegal occupancy of a building, structure or premises.

A. Failure to maintain a site in accordance with an approved site plan shall constitute a violation of this chapter and a failure to correct such a violation within 30 days following notice of violation shall render the site plan and any certificates of zoning compliance and occupancy subject to cancellation.

B. Failure to acquire site plan approval where required, prior to construction, alteration, or other modification of a building, sign or structure, shall constitute a violation of this chapter. Failure to correct such a violation within 30 days following notice of violation shall render the site plan and any certificates of zoning compliance and occupancy subject to cancellation. In addition, the Building Official shall post a stop-work order relating to work in the process of completion outside the requirements of this chapter.

C. Penalties for a violation of this chapter or failure to comply with any of its requirements shall constitute a municipal infraction as set forth in Chapter 3 of this Code of Ordinances. Each day that a violation occurs shall constitute a separate offense. In the event that the City seeks court



intervention for violation of any provisions of this chapter, the City may seek reimbursement for reasonable attorney fees and administrative costs. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

5. It is unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provisions of this chapter, or any amendment or supplement thereto. Any person violating any regulation in or any provision of this chapter or of any amendment or supplement thereto shall be in violation of this Code of Ordinances and each and every day during which illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.

*(Ch. 157 – Ord. 2011-1100 – Jan. 12 Supp.)*

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## CHAPTER 158

# MAILBOXES

158.01 Purpose	158.06 Driveway or Street Access Limitations
158.02 Definitions	158.07 Curbside Mailbox Requirements
158.03 Cluster-Style Mailbox Required in New Developments	158.08 Custom-Built Individual Mailbox Requirements
158.04 Cluster-Style Mailbox Requirements	158.09 Custom-Built Cluster-Style Mailbox Requirements
158.05 Visibility; Obstruction	158.10 Responsibilities of Property Owner
	158.11 Snow Removal

**158.01 PURPOSE.** The City's right-of-way is held by the City primarily for the purpose of pedestrian and vehicular passage and for the City's provision of essential public safety services, including police, fire and emergency medical response services, and public health services, including sanitary sewer, water and storm drainage. Further, the purpose is to eliminate parking problems on streets and improve the ability of the City to remove snow from streets. This chapter provides standards for mailboxes in order to maintain the safety and the visual character of the City's right-of-ways.

**158.02 DEFINITIONS.** For use in this chapter, the following terms are defined

1. "Breakaway support" means a supporting post which shall be no larger than a 4" x 4" wood post or a metal post with a strength no greater than a 2" diameter schedule 40 steel pipe and which is buried no more than 24 inches deep. Such a support post shall not be set in concrete unless specifically designed as a breakaway support system as defined in *A Guide for Erecting Mailboxes on Highways* published by the American Association of State Highway and Transportation Officials, current edition (AASHTO).
2. "Clear zone" means an unobstructed flat area adjacent to the traveled portion of a roadway that is used for the recovery of errant vehicles, as defined by AASHTO.
3. "Cluster-style mailbox" means a style whereby mailboxes, meeting the specifications of the United States Postal Service ("USPS") with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," are assembled and grouped together on a single area of land so that they are regarded as one unit. Cluster-style mailboxes must be manufactured cluster-style mailboxes approved by both the City and the USPS.
4. "Curbside mailbox" means a mailbox consisting of a lightweight sheet metal or plastic box meeting the specifications of the United States Postal Service ("USPS") with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," which is erected at the edge of a roadway or curbside of a street and is mounted on a breakaway support post, and is intended or used for the collection of mail and is to be served by a mail carrier from a vehicle.
5. "Custom-built individual mailbox" means a mailbox erected at the edge of a roadway or curbside of a street constructed using materials that do not meet the definition of a "curbside mailbox" and "breakaway support."

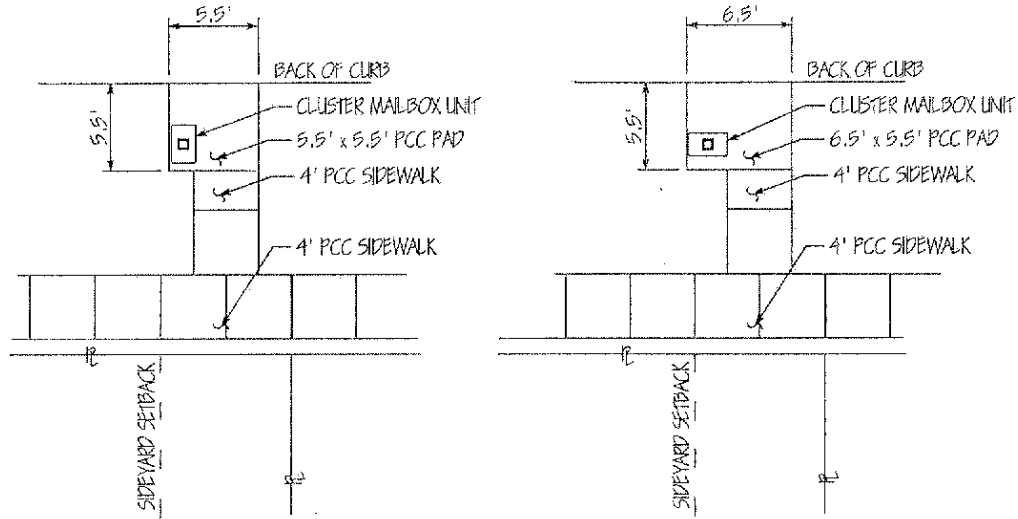
6. “Custom-built cluster mailbox” means a multiple number (two or more) of mailboxes erected at the edge of a roadway or curbside of a street being constructed of materials that do not meet the definition of a “cluster-style mailbox” and has no “breakaway support”.

### **158.03 CLUSTER-STYLE MAILBOX REQUIRED IN NEW DEVELOPMENTS.**

1. Residential Developments. All new residential developments platted or in the site plan stage after the enactment of the regulations contained in this chapter which are situated on any cul-de-sac, street, avenue or other roadway that is maintained or approved by the City and receive curbside delivery of mail shall have cluster-style mailboxes. Any housing development constructed and already receiving mail service before the regulations in this chapter are enacted is not required to have cluster-style mailboxes.

2. Commercial Developments. All new commercial developments platted or in the site plan stage after the enactment of the regulations contained in this chapter and which wish to receive delivery of mail shall make provisions for the delivery of their mail within the development and off the public streets or right-of-ways where possible. Where there is more than one commercial establishment, cluster-style mailboxes will be required. Approval is required by the U.S. Post Office as well as the Planning and Zoning Commission.

**158.04 CLUSTER-STYLE MAILBOX REQUIREMENTS.** Cluster-style mailboxes serving housing developments situated on any public street or roadway shall be located between the sidewalk and curb, outside of the three-foot (3') clear zone. Cluster-style mailboxes shall have a 4' concrete access from the public street and the public sidewalk. The location of the cluster-style mailboxes shall not exceed 600 feet from the property line of those residents served by that cluster-style mailbox. Cluster-style boxes shall typically be located on property lines on the same side as the “no parking” areas. The location of the cluster style mailbox shall be rioted and become part of the requirements of Chapter 170, Subdivision Regulations, and shall follow the requirements as set out in the Preliminary Plat and Accompanying Materials as well as the Final Plat and Accompanying Materials of this Code of Ordinances. Further, prior to submission of the preliminary plat, approval of the USPS must be obtained and attached with the plat. In the case where the final plat is approved with a performance bond, that bond shall cover the mailboxes and the installation shall occur prior to any occupancy permit being issued for a home in the plat. Mailboxes shall be installed prior to any occupancy permit being issued for any other building requiring cluster-style mailboxes. The cost of installation, including but not limited to box units and concrete pad, shall be borne by the developer, and subsequent maintenance shall be carried out by the USPS. The Portland cement concrete pad and associated sidewalk shall conform to the details below unless otherwise specified on the preliminary plat.



**CLUSTER MAILBOX PADS**

MAILBOXES SHALL FACE SOUTH OR EAST AS SHOWN ON PLAN

**158.05 VISIBILITY; OBSTRUCTION.** All cluster-style mailboxes must be erected:

1. Away from the intersection of any street and, in no case closer than 100 feet measured from the center of the intersection in order to prevent obstruction of free and clear vision; and
2. Away from any location where, by reason of the position of, shape or color it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.

**158.06 DRIVEWAY OR STREET ACCESS LIMITATIONS.** No driveway or street access shall be constructed within 5 feet of the cluster-style mailboxes.

**158.07 CURBSIDE MAILBOX REQUIREMENTS.** While curbside mailboxes may be installed in developments constructed and already receiving mail service before the adoption of this chapter, the mailbox owner must comply with the following installation requirements:

1. The bottom of the mailbox shall be 41" to 45" from the road surface. On streets without curbs, the bottom of the mailbox shall be 48" from the edge of pavement, as defined by USPS installation requirements.
2. Lateral placement of the face of the mailbox shall be 6" minimum from the back of the curb, as defined by USPS installation requirements.
3. The mailbox support post shall be of a "breakaway support" design, as defined by ASHTO.
4. The post-to-box attachment shall be of sufficient strength to prevent the box from separating from the post if a vehicle strikes the post.
5. Property owner shall be responsible for the maintenance of the curbside mailbox.

**158.08 CUSTOM-BUILT INDIVIDUAL MAILBOX REQUIREMENTS.** A custom-built individual mailbox may not be installed in developments constructed and already receiving mail service before the adoption of this chapter. If a custom-built individual mailbox is existing at the time of the enactment of the ordinance codified in this chapter, the custom-built mailbox will be grandfathered, and allowed to stay. However, should the mailbox sustain 50% damage, the custom-built mailbox may not be replaced. A custom-built mailbox must conform to the following requirements and rules:

1. Property owner shall be responsible for the maintenance of the custom-built mailbox. If the mailbox is damaged beyond use by the City, a standard curbside mailbox and breakaway post as defined in this chapter will be provided or the property owner can be reimbursed up to a maximum replacement amount set by Council.

**158.09 CUSTOM-BUILT CLUSTER-STYLE MAILBOX REQUIREMENTS.** A custom-built cluster mailbox may not be installed unless specifically approved by Council on a Site Plan in accordance with Chapter 157 of this Code of Ordinances. A custom-built cluster-style mailbox must conform to the following requirements and the rules:

1. Homeowner's Association owner shall be responsible for the maintenance of the custom-built mailbox. The City shall not be responsible for any damage to custom-built cluster mailboxes.

**158.10 RESPONSIBILITIES OF PROPERTY OWNER.** Any type of mailbox located in the City right-of-way is subject to damage or destruction, at any time, as a result of the City or a person with a utility easement entering upon the City right-of-way to construct, repair or maintain the utilities located in the City right-of-way or as a result of the City engaging in activities to maintain the public street or right-of-way, such as snow removal, pavement repair or street cleaning. If a curbside or cluster-style mailbox located in the City right-of-way is damaged during such activities, the City or the utility that damaged the mailbox shall replace said mailbox with a mailbox of the same design, if it has been approved for installation by the USPS with the proper markings inscribed "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL" and if it is still available for purchase and complies with this chapter. Property owner may choose to be reimbursed in full or have the City reinstall a new mailbox meeting stated requirements. If the property owner chooses to purchase an approved mailbox and be reimbursed, the City will install the mailbox at the property owner's request.

**158.11 SNOW REMOVAL.** It is the responsibility of the adjoining property owner or occupant to clear the snow and accumulations from the sidewalk and pad around the cluster-style mailboxes within 24 hours after the snow has ceased to fall.

## CHAPTER 159

# SMALL WIND ENERGY CONVERSION SYSTEMS

159.01 Purpose

159.02 Definitions

159.03 General Regulations

159.04 Bulk Regulations

159.05 Site Plan Required

159.06 Permit Required

**159.01 PURPOSE.** The purpose of this chapter is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The City finds these regulations are necessary to ensure that Small Wind Energy Conversion Systems are appropriately designed, sited and installed.

**159.02 DEFINITIONS.** For purposes of this Chapter, the following definitions shall apply:

1. “dB(A)” means the sound pressure level in decibels. Refers to the “a” weighted scale defined by the American National Standards Institute (ANSI). A method for weighting the frequency spectrum to mimic the human ear.
2. “Decibel” means the unit of measure used to express the magnitude of sound pressure and sound intensity.
3. “Height, Total System” means the height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.
4. “Lot” or “Parcel” means any legally established lot or parcel which contains or could contain a permitted or permitted conditional principal use as provided by Chapter 165 of this Code.
5. “Off Grid” means an electrical system that is not connected to utility distribution and transmission facilities or to any building or structure that is connected.
6. “Qualified Professional Installer” means an installer that is certified by the manufacturer of the SWECS as qualified to install and maintain that manufacturer’s SWECS according to the manufacturer’s recommendations.
7. “Shadow Flicker” means changing light intensity caused by sunlight through the moving blades of a wind energy conversion system.
8. “Small Wind Energy Conversion System (SWECS)” means a wind energy conversion system which has a nameplate rated capacity of up to twenty (20) kilowatts for residential uses and districts and up to one hundred (100) kilowatts for commercial and industrial districts and which is incidental and subordinate to a principal use on the same parcel. Any request for a larger kilowatt than is allowed by this section shall be evaluated as a part of the Site Plan review process. A system is considered a SWECS only if it supplies electrical power solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.

9. “Small Wind Energy Conversion System, Free Standing” means a SWECS which is elevated by means of a monopole tower only and is not located on another supporting structure except that the tower shall have an appropriately constructed concrete base. Guyed, lattice, or other non-monopole style towers shall not meet this definition.
10. “Small Wind Energy Conversion System, Horizontal Axis” means a SWECS that has blades which rotate through a horizontal plane.
11. “Small Wind Energy Conversion System, Building Mounted” means a SWECS which is securely fastened to any portion of a principal building in order to achieve desired elevation, whether attached directly to the principal building or attached to a tower structure which is in turn fastened to the principal building.
12. “Small Wind Energy Conversion System, Vertical Axis” means a SWECS that has blades which rotate through a vertical plane.
13. “Tower” means the vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.
14. “Utility” or “Utilities” means all underground or overhead utility lines and appurtenances including municipal water, sanitary sewers, and storm sewers as well as franchise utility services such as electric, natural gas, telephone, cable, communications and similar services.
15. “Wind Energy Conversion System (WECS)” means an aggregation of parts including the foundation, base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill or wind turbine.
16. “Wind Turbine Generator” means the component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

### **159.03 GENERAL REGULATIONS.**

1. **Conditional Use.** A Small Wind Energy Conversion System (SWECS) shall be allowed only as a conditional accessory use to a permitted principal use as defined in Chapter 165 of the Municipal Code.
2. **Zoning.** SWECS may be allowed in all zoning districts subject to the provisions contained herein and elsewhere within City Code.
3. A WECS that does not meet the definition of a SWECS is prohibited within the City of Polk City.
4. **Permit Required.**
  - A. It shall be unlawful to construct, erect, install, alter or locate any SWECS within the City of Polk City, unless a permitted conditional use permit has been obtained from the City Administrator. No such permit shall be issued until such time as a Site Plan has been approved by City Council, upon recommendation of the Planning and Zoning Commission.
  - B. Site Plan approval for a SWECS may be revoked by resolution of the City Council any time the approved system does not comply with the rules set forth in this chapter and the conditions imposed by the City Council.



- C. The owner/operator of the SWECS must also obtain any other permits required by other federal, state and local agencies/departments prior to constructing the system.
- D. Any new structure proposed to be located within the fall zone of any existing SWECS shall require approval of an amended Site Plan for the SWECS prior to a Building Permit being issued for said structure unless said structure was shown on the approved Site Plan.
5. Number of Systems per Zoning Lot.
- A. Residential Use. No more than one (1) freestanding SWECS may be placed on any parcel or lot for residential use. Building mounted SWECS shall be prohibited on any parcel or lot containing a one (1) or two (2) family use unless an Iowa licensed structural engineer has completed a written analysis and certified the roof can handle the weight and stress of the SWECS without damage to the structure. If such analysis recommends improvements be made to the existing roof structure to support the SWECS, such improvements shall be required prior to issuance of the permit.
- B. Multi-family Residential Use, Commercial, Industrial, and Institutional Use. No more than one (1) freestanding SWECS may be placed on any parcel or lot with a multi-family residential, commercial, industrial, or institutional use that is taller than the tallest existing principal building located on said parcel or lot. Additional freestanding SWECS which conform to setback requirements contained herein and which are no taller than the tallest existing principal building located on said parcel or lot may be allowed on lots over 7.0 acres in size if approved by City Council. Building mounted SWECS may be allowed within the parameters herein below provided an Iowa licensed structural engineer has completed a written analysis and certified the roof can handle the weight and stress of the SWECS without damage to the structure . If such analysis recommends improvements be made to the existing roof structure to support the SWECS, such improvements shall be required prior to issuance of the permit.
- C. Mixed Use. Any building containing both residential and commercial uses or described as a "Mixed Use" building, shall be considered a commercial use for the purposes of this chapter.
6. All small wind turbines shall be certified by the Small Wind Certification Council (SWCC) as having met the requirements of the American Wind Energy Association (AWEA) for performance and safety.
7. Tower. Only monopole towers shall be permitted for freestanding SWECS. Lattice, guyed or towers of any other type shall not be considered to be in compliance with this chapter.
8. Color. Freestanding SWECS shall be a neutral color such as white, sky blue or light gray. Building mounted SWECS shall match the color of the building on which it is mounted. Other colors may be allowed at the discretion of the City Council upon recommendation of the Planning and Zoning Commission. The surface shall be non-reflective.
9. Lighting. No lights shall be installed on the tower, unless required to meet FAA regulations.

10. **Signage.** At least one weatherproof warning sign, no less than eight inches by ten inches (8"x10") and no more than twelve inches by twenty inches (12"x20") in size shall be posted on the tower base or fenced enclosure to warn of hazards and to advise against trespassing. No other signage, graphics, or advertising of any kind shall be permitted on the tower or any associated structures including blades, turbine, generator housing or fence enclosure other than said warning sign.
11. **Climbing Apparatus.** The tower must be designed to prevent climbing within the first ten feet (10').
12. **Installation.** Installation shall be done by a qualified professional installer certified by the manufacturer of a SWECS as qualified to install and maintain that manufacturer's SWECS according to the manufacturer's recommendations.
13. **Maintenance.** Facilities shall be well maintained in accordance with manufacturer's specifications and shall remain in an operational condition that poses no potential safety hazard nor is in violation of any provisions contained within this chapter or elsewhere within the City Code.
14. **Displacement of Parking Prohibited.** The location of the SWECS shall not result in the net loss of required parking as specified in Chapter 165 – Zoning Regulations of the City Code.
15. **Utility Notification.** The City shall notify the utility of receipt of an application to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.
16. **Interconnection.** If connected to the grid, the SWECS shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board. No permit of any kind shall be issued until the City of Polk City has been provided with a copy of an executed interconnection agreement. Off-grid systems shall be exempt from this requirement.
17. **Restriction on Use of Electricity Generated.** A SWECS shall be used exclusively to supply electrical power to the owner for on site consumption, except that excess electrical power generated by the SWECS and not presently needed for use by the owner may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as may be subsequently amended.
18. **Noise.** A SWECS shall be designed, installed and operated so that the noise generated does not exceed the 60 decibels "dB(A)" as measured at the property line of the site on which the system is located except during short-term high wind events such as utility outages and severe windstorms. The applicant shall submit a site-specific noise study or the manufacturer's engineered sound studies for review to verify that the noise level will comply with these regulations.
19. **Shadow Flicker.** No SWECS shall be installed and operated so to cause a shadow flicker to fall on or in the buildable area of any lot or parcel, other than the lot or parcel on which the SWECS is located. The applicant shall submit a written analysis prepared by a licensed engineer that defines the boundaries of where the shadow is cast during all seasons of the year on a site layout plan. Said analysis shall include the computer program results for review.
20. **Safety Controls.** Each SWECS shall be equipped with both an automatic and manual braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, or turbine

components. Said automatic braking system shall also be capable of stopping turbine rotation in the event of a power outage so as to prevent back feeding of the grid or other utility approved back feed prevention control devices.

21. Shut Off. A clearly marked and easily accessible shut off for the wind turbine will be required as determined by the Building Official of the City of Polk City.

22. Electromagnetic Interference. All SWECS shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SWECS is causing electromagnetic interference, the owner/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the City of Polk City. A permit granting a SWECS may be revoked if electromagnetic interference from the SWECS becomes evident.

23. Wind Access Easements. The enactment of this chapter does not constitute the granting of an easement by the City of Polk City. The SWECS owner/operator shall have the sole responsibility to acquire any covenants, easements, or similar documentation to assure and/or protect access to sufficient wind as may or may not be necessary to operate the SWECS.

24. Insurance. The owner/operator of a SWECS must demonstrate and maintain liability insurance of not less than \$1,000,000 coverage.

25. Engineer Certification. Applications for any freestanding or building mounted SWECS shall be accompanied by standard drawings of the wind turbine support structure, including the tower, base, and footings, or existing structure if applicable. An engineering analysis of all components of the SWECS showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted.

26. Installation. Installation must be done according to manufacturer's recommendations. All wiring and electrical work must be completed according to the applicable building and electric codes. All electrical components must meet code recognized test standards.

27. Removal. If the SWECS remains nonfunctional or inoperative for a continuous period of six (6) months, the system shall be deemed to be abandoned. The SWECS owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, transmission equipment and fencing from the property excluding foundations. Non-function or lack of operation may be proven by reports from the interconnected utility. For off-grid systems the City of Polk City shall have the right to enter the property at its sole discretion to determine if the off-grid system is generating power. Such generation may be proven by use of an amp meter. The SWECS owner/operator and successors shall make available to the City of Polk City all reports to and from the purchaser of energy from the SWECS if requested. If removal of towers and appurtenant facilities is required, the City of Polk City shall notify the SWECS owner/operator. Removal shall be completed within six (6) months of written notice to remove being provided to the owner/operator by the City of Polk City.

28. Right Of Entrance. As a condition of approval of a Conditional Use Permit an applicant seeking to install SWECS shall be required to sign a petition and waiver agreement which shall be recorded and run with the land granting permission to the City of Polk City to enter the property to remove the SWECS pursuant to the terms of approval and to assure compliance with the other conditions set forth in the permit.

Removal shall be at the expense of the owner/operator and the cost may be assessed against the property.

29. Feasibility Study. It is highly recommended that a feasibility study be made of any site prior to installing a wind turbine. The feasibility study should include measuring actual wind speeds at the proposed turbine site for at least three (3) months.

30. Restrictive Covenants. Deeds for property located in subdivisions approved after the date of the ordinance codified in this chapter shall not contain restrictive covenants that include unreasonable restrictions on the use of SWECS.

#### **159.04 BULK REGULATIONS.**

1. Setbacks.
  - A. The minimum distance between any freestanding SWECS and any property line shall be a distance that is equivalent to one hundred twenty-five percent (125%) of the total system height. The setback shall be measured from the property line to the point of the SWECS closest to the property line.
  - B. The required setback for any building mounted SWECS shall be equal to the required setback of the principal building to which the SWECS is to be attached at such time that the application to install a building mounted SWECS is received by the City of Polk City.
2. Maximum Height. Height shall be measured from the ground to the top of the tower, including the wind turbine generator and blades.
  - A. For lots of more than one (1) and fewer than three (3) acres, the maximum height shall be 65 feet.
  - B. For lots of three (3) to seven (7) acres, the maximum height shall be 80 feet.
  - C. For lots of more than seven (7) acres, the maximum height shall be 100 feet.
  - D. Building mounted SWECS on single-family dwellings, 2-family dwellings and townhomes may be a maximum of 10 feet higher than the point of attachment to the building on which they are attached.
  - E. Building mounted SWECS on multi-family, mixed use, commercial, or industrial buildings may be a maximum of 20 feet higher than the point of attachment to the building on which they are attached.
3. Minimum Lot Size.
  - A. The minimum lot size for a freestanding SWECS shall be one (1) acre.
  - B. The minimum lot size for a building mounted SWECS shall be one (1) acre for any building of less than five (5) stories in height.
  - C. There shall be no minimum lot size for building mounted SWECS to be mounted on buildings of five (5) or more stories in height.
4. Clearance of Blade. No portion of a horizontal axis SWECS blade shall extend within thirty (30) feet of the ground. No portion of a vertical axis SWECS shall extend within ten (10) feet of the ground. No blades may extend over parking areas,

driveways or sidewalks. No blade may extend within twenty (20) feet of the nearest tree, structure or above ground utility facilities.

5. Location.
  - A. No part of a SWECS shall be located within or over drainage, utility or other established easements.
  - B. A freestanding SWECS shall be located entirely in the rear yard for all residential uses, including mixed use buildings comprising residential uses. A freestanding SWECS for all other uses shall be situated in a location appropriate to the property and setting and shall be determined through the site plan review process.
  - C. A SWECS shall be located in compliance with the guidelines of applicable Federal Aviation Administration (FAA) regulations as amended from time to time.
  - D. No SWECS shall be constructed so that any part thereof can extend within twenty (20) feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least ten (10) feet.
  - E. Building mounted SWECS shall be prohibited unless the owner has obtained a written analysis from an Iowa licensed structural engineer determining that the SWECS can be securely fastened so as to not pose a hazard caused by detaching from the structure.

#### **159.05 SITE PLAN REQUIRED.**

1. The applicant shall submit a site plan in general conformance to the procedures and requirements of Chapter 157 – Site Plans of the City Code.
2. The site plan shall include:
  - A. Location of the SWECS on the site and total height of the system, including blades, rotor diameter, and ground clearance;
  - B. The area of the base of each tower and depths;
  - C. Utility lines, telephone lines and any other lines, both above and below ground, within a radius of two hundred (200) feet from the tower base;
  - D. Details as to how the power will be delivered to the grid, including the route and size of poles and towers to be used;
  - E. Property lot lines, land uses, trees, and the location and dimensions of all existing structures and uses on and off site within a radius of two hundred (200) feet from the tower base;
  - F. All required setbacks for freestanding or building-mounted SWECS, whichever is applicable;
  - G. The shadow boundary line in accordance with the flicker shadow study, along with the location of any dwelling or structure located inside the boundary of the defined shadow or within fifty (50) feet of the limits of the defined shadow;

- H. Noise level analysis, based on a site-specific noise study by a licensed engineer or the manufacturer's engineered sound studies;
  - I. The property lines for all parcels located within two hundred fifty (250) feet of the edge of the property on which the SWECS will be located and the names of all property owners of said parcels;
  - J. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electric Code; and
  - K. Design data for the system indicating the basis of design, including manufacturer's dimensional drawings and installation and operation instructions.
3. Prior to considering a site plan for a SWECS, the Planning and Zoning Commission shall hold a public hearing. Notification of the public hearing shall be published as specified elsewhere in City Code. The City Clerk shall mail notification of the public hearing to all property owners of parcels located within two hundred fifty (250) feet of the edge of the property on which the SWECS will be located. The applicant shall provide all necessary stamped and addressed envelopes to the City Clerk for such purpose.
4. Following public hearing, the Planning and Zoning Commission shall make their recommendation to Council for approval, approval with conditions, or denial of the Site Plan. The City Council shall then take action to approve or deny the Site Plan.

#### **159.06 PERMIT REQUIRED.**

- 1. Application for SWECS permit shall be made on forms provided by the City.
- 2. Fees for a SWECS permit shall be in accordance with a fee schedule adopted from time to time by resolution of the City Council.
- 3. No SWECS permit application shall be approved until the Site Plan has been approved by City Council.
- 4. No action may be taken regarding requests for SWECS, including the commencement of construction, until such time as the permit has been approved by the City Administrator and all fees have been paid.
- 5. All SWECS permit applications shall be renewed on July 1<sup>st</sup> of each year. Every third year and prior to the City Administrator's approval of said renewal, the applicant shall provide written certification from an Iowa licensed professional engineer stating that the SWECS is in compliance with all federal, state and local codes, including all requirements of this chapter. The cost for the annual renewal of the permit will be stated in a resolution as from time to time adopted by the Council.

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## CHAPTER 162

# FLOODPLAIN MANAGEMENT ORDINANCE

162.01 Title	162.06 Nonconforming Uses
162.02 Statutory Authority, Findings of Fact and Purpose	162.07 Penalties for Violation
162.03 General Provisions	162.08 Amendments
162.04 Floodplain Management Standards	162.09 Definitions
162.05 Administration	

**162.01 TITLE.** This Chapter establishes the Flood Zone Regulations for Polk City and provides for the administration, enforcement and amendment thereof.

### **162.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.**

1. 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 of Polk 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 floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Polk 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 Section 162.02(2)(A) of this Ordinance 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.

### **162.03 GENERAL PROVISIONS.**

1. Lands to Which Ordinance Apply. The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Polk City. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Polk County, Panel 1909010025B, dated March 4, 1984, which is hereby adopted and made a part of this Ordinance. This ordinance shall additionally apply to all lands within the jurisdiction of the City of Polk City that have not been mapped on a FIRM or a Flood Hazard Boundary Map and/or have been identified by the community as having the presence of flood-prone areas.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Administrator shall make the necessary interpretation. The Planning and Zoning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City of Polk City in the enforcement or administration of this Ordinance.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

4. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Polk City or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

7. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**162.04 FLOODPLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where floodway data and 100-year flood elevations have not been provided on the



Flood Insurance Rate Map, 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 determination.

1. All development within the special flood hazard areas shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be 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 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.
4. All new and substantially improved structures:
  - A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems:

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly

elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures:

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles:

A. Recreational vehicles are exempt from the requirements of 162.04(E) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is

on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 160.04(5) of this Ordinance regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

#### **162.05 ADMINISTRATION.**

##### 1. Appointment, Duties and Responsibilities of Floodplain Administrator.

A. The City Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

B. Duties of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.

(4) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.

(5) 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.

(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

##### 2. Floodplain Development Permit.

A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, 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) Indication of the use or occupancy for which the proposed work is intended.
- (4) Elevation of the 100-year flood.
- (5) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
- (6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
- (7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Planning and Zoning Commission.

D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

3. Variance.

A. The Planning and Zoning Commission may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

B. Factors Upon Which the Decision of the Planning and Zoning Commission Shall be Based - In passing upon applications for Variances, the Planning and Zoning Commission shall consider all relevant factors specified in other sections of this Ordinance and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a floodplain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

(13) Such other factors which are relevant to the purpose of this Ordinance.

C. Conditions Attached to Variances - Upon consideration of the factors listed above, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitation of periods of use and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
- (5) Floodproofing measures.

#### **162.06 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**162.07 PENALTIES FOR VIOLATION.** Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$750.00 (Seven Hundred Fifty Dollars) or imprisoned for not more than Thirty (30) days. Nothing herein contained prevent the City of Polk City from taking such other lawful action as is necessary to prevent or remedy violation.

**162.08 AMENDMENTS.** The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

**162.09 DEFINITIONS.** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. Base Flood - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).
2. Basement - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. Development - Any man-made change to improved or unimproved real estate, including but not limited to building 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, grading.
4. Existing Construction - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".
5. Existing Factory-Built Home Park or Subdivision - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
6. Expansion of Existing Factory-Built Home Park or Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. Factory-Built Home - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. Factory-Built Home Park - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. Flood - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.



10. Flood Elevation - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
11. Flood Insurance Rate Map (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. Floodplain - Any land area susceptible to being inundated by water as a result of a flood.
13. Floodplain Management - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplain s, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
14. Floodproofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. Floodway - The channel of a river or stream and those portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
16. Floodway Fringe - Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. Historic Structure - Any structure that is:
  - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. Lowest Floor - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
  - A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of 162.04(4)(A) of this Ordinance and

- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C, and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. Minor Projects - Small development activities (except for filling, grading and excavating) valued at less than \$500.

20. New Construction - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

21. New Factory-Built Home Park or Subdivision - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

22. One Hundred (100) Year Flood - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

23. Recreational Vehicle - A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

24. Routine Maintenance of Existing Buildings and Facilities – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;

- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
25. Special Flood Hazard Area - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.
26. 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.
27. Structure - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.
28. Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
29. Substantial Improvement - Any improvement to a structure which satisfies either of the following criteria:
- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".
- B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed on or 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.
30. Variance - A grant of relief by a community from the terms of the floodplain management regulations.

31. Violation - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

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## CHAPTER 165

# ZONING REGULATIONS

165.01 Title	165.14 Exceptions and Modifications
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165.04 Establishment of Districts and Boundaries	165.17 Landscape, Planting and Screening
165.05 Application of District Regulations	165.18 Wireless Telecommunications Towers & Antennas
165.06 General Regulations	165.19 Special Permits
165.07 Nonconforming Uses	165.20 Administration Waiver
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165.13A Government Facility District	165.27 Enforcement
165.13B Floodplain Overlay District Regulations	165.28 Special Events

**165.01 TITLE.** This chapter establishes comprehensive zoning regulations for the City of Polk City, Iowa, and provides for the administration, enforcement and amendment thereof. This chapter shall be known and may be cited and referred to as the “Zoning Code” of the City.

**165.02 INTERPRETATION OF STANDARDS.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control.

**165.03 DEFINITIONS.** For the purpose of this chapter, the following terms or words are defined. The words “used or occupied” include the words intended, designed, or arranged to be used or occupied. The word “lot” includes the words plot or parcel.

1. “Accessory use or structure” means a use or structure on the same lot with and of a nature subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. “Adult entertainment business” means and includes any of the following:
  - A. “Adult amusement or entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to “sex act” or “specified anatomical areas,” as defined herein, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
  - B. “Adult bookstore” means an establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by an emphasis on matter depicting or describing “sex act” or “specified anatomical areas.”
  - C. “Adult hotel or motel” means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein material is presented which is distinguished or

characterized by an emphasis on depicting or describing “sex act” or “specified anatomical areas” for observation by the individuals therein.

D. “Adult motion picture arcade” means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing “sex act” or “specified anatomical areas.”

E. “Adult motion picture theater” means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing “sex act” or “specified anatomical areas.”

F. “Adult photo studio” means an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing “specified anatomical areas” or “sex acts” as defined herein.

G. “Massage parlor” means any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on “sex act” or “specified anatomical areas” by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician’s direction, physical therapist, registered speech pathologist and physical or occupational therapist who treat only patients recommended by a licensed physician and operate only under such physician’s direction, whether with or without the use of mechanical, therapeutic or bathing devices. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

H. “Sexual encounter center” means any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons may congregate, assemble or associate for the purpose of engaging in “sex act” or exposing “specified anatomical areas.”

I. “Sex act,” as used in the definition of “adult entertainment business,” means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger or one person and the genitalia of another, or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

J. “Specified anatomical areas” means and includes the following: human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.

3. “Alley” means a public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.

4. “Apartment” means a room or suite of room in a multiple dwelling intended or designed for use as a residency by a single family.

5. “Attic” means a space under a gable, hip or gambrel, or other roof, the finished floor of which is, or would be, at or entirely above the level of the wall plates

of at least two (2) exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed ten (10) feet.

6. “Basement” means a story having part but no more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulation. When a story has more than one-half of its height below grade, the story constitutes a cellar and shall not be counted as a story for the purpose of height regulation.

7. “Bed and Breakfast” means a facility providing temporary lodging other than a hotel, motel or boarding house and which are classified as follows:

A. Residential B & B which is owner occupied and has less than three (3) rental units.

B. B & B Inn which may be owner occupied and has up to and including twelve (12) rental units.

C. B & B Hotel which may be owner occupied and has more than twelve (12) rental units.

8. “Block” means that property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets, or lying within the nearest intercepting or intersecting streets and unsubdivided acreage, railroad right-of-way or water.

9. “Board” means the Board of Adjustment.

10. “Boarding house” or “Rooming house” means a building other than a hotel where, for compensation, meals and lodging are provided for up to two (2) persons and only as an accessory use to the principal single-family residence and no more than 50% transient occupancy.

11. “Building” means any structure having a roof supported by walls or by columns designed or intended for enclosure, shelter or housing of persons, animals or property. When any portion thereof is separated by party walls without window, door or other openings, each portion so separated shall be deemed a separate building.

12. “Building frontage” means that wall or side of a building which is adjacent and most nearly parallel to a street.

13. “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.

14. “Building line” means the line of the outside wall of the building or any enclosed projection thereof nearest the street.

15. “Bulk stations” means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

16. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this chapter, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

17. "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.
18. "Center" or "complex" means a building or group of buildings which are designed to use common facilities such as parking or sidewalk.
19. "Channel" means a natural or artificial watercourse of perceptible extent, with a definite bed and definite banks to confine and to conduct continuously or periodically flowing water.
20. "Clinic, medical or dental" means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professional assistants are associated for the purpose of carrying on their profession.
21. "Convenience store" means an establishment for retail sale of petroleum products and other supplies for motor vehicles, as well as for the retail sale of a variety of other items typically sold in grocery stores.
22. "Court" means an open, unobstructed and unoccupied space other than a yard, which is bounded on two (2) or more sides by a building on the same lot.
23. "Day nursery" or "nursery school" means any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight, for six (6) or more unrelated children of preschool age, for compensation.
24. "District" means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
25. "Duplex" means a residential two-family dwelling with a common wall.
26. "Dwelling" means any stationary, permanent building or portion thereof which is designed or used exclusively for residential purposes, but not including a cabin or camping trailer.
27. "Dwelling, single-family, detached" means a residence designed for or occupied by one family only, entirely surrounded by yard on the same lot.
28. "Dwelling, single-family, bi-attached" or "semi-detached" means a dwelling designed for or occupied by one family only, which is erected on a separate lot and is joined to another such residence on one side only by wall located on the lot line and which has yards on the remaining sides.
29. "Dwelling, duplex" or "two-family" means a residence designed for or converted for occupancy by two (2) families only, with separate housekeeping and cooking facilities for each dwelling.
30. "Dwelling, multiple" means a residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
31. "Dwelling, condominium" means a multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others and where the general common elements of the structure, as defined under the Code of Iowa, is shared by one or more persons, corporations or other legal entities capable of holding or owning an interest in real property.



32. “Dwelling, row” means any one of three or more residences designed for or occupied only by one family within a townhome development which are attached and in a continuous row. Each dwelling is designed and erected as a unit on a separate lot with an individual entrance. All dwelling units must be separated horizontally from each other dwelling by a dividing wall, but may not be separated vertically from each other by a dividing floor or ceiling. No more than six units shall be permitted in a single structure.
33. “Dwelling, garden home” means a building containing only one dwelling unit on a separate lot and designed for and occupied exclusively for residence purposes by only one family within a townhome development.
34. “Dwelling, townhome” means a row dwelling or garden home as defined herein which is characterized by common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Said covenants shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association to assure access to the structure exterior of each townhome unit by the individual unit owner.
35. “Dwelling, group home” means a dwelling shared by four (4) or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which the staff provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible.
36. “Dwelling unit” means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
37. “Family” means one or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who are living together in a single dwelling and maintaining a common household. Not more than two persons not so related, living together on the premises as a common household, may constitute a “family” in a single-family residential district. A “family” may include domestic servants residing with said “family.”
38. “Farm” means an area of ten (10) acres or more which is used for the growing of the usual farm products, such as vegetables, fruits, trees and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term “farming” includes the operating of such an area for one or more of the above uses, including the necessary accessory uses for treating or storing the produce; provided, however the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further that “farming” does not include the feeding of garbage or offal to swine or other animals.
39. “Flood” means a temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.
40. “Flood plain” means the land adjacent to a body of water that has been or may be hereafter covered by flood water, including but not limited to the 100-year flood.
41. “Floodway” means the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and to discharge the flood water

or flood flows of any river or stream, including but not limited to flood flows associated with the 100-year flood.

42. “Floor area ratio” means the gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.

43. “Garage, private” means an enclosed structure intended for and used for the housing of motor-driven vehicles of the residents of the premises.

44. “Garage, public” means any building or premises other than a private garage used for the equipping, refueling, servicing, repairing, hiring, selling or storing motor-driven vehicles.

45. “Gas station” means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such product as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories and other items customarily associated with the sale of such products; for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are: spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires. No service operations are permitted outside a fully enclosed building. No outdoor storage of parts and/or vehicles in the process of being repaired is permitted. Truck stops are specifically excluded from this definition.

46. “Height” means the vertical distance from the average level of ground grade to the highest portion of the structure.

47. “Home occupation” means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the character thereof; and provided that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family residing on the premises. The following, but not limited to the following, are NOT deemed home occupations: clinics, doctors’ offices, hospitals, barber shops, beauty parlors, dress shops, real estate offices, millinery shops, tea rooms, tourist or nursing homes, animal hospitals and kennels.

48. “Hotel” means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding house or lodging house.

49. “Inoperable motor vehicle” means any motor vehicle which lacks (1) current registration, or (2) two or more wheels or other component parts, the absence of which renders the vehicle totally unfit for legal use of highways.

50. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper trash, rubber debris, waste; dismantled or inoperable vehicles, machinery and appliances, or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tinware, plastic, or old discarded household goods or hardware.

51. “Junk yard” means any place not fully enclosed in a building, used in whole or in part for the storage, salvage or deposit of junk, used lumber or salvaged wood, whether in connection with a business or not, which encompasses an area of two hundred square feet or more, or any place where more than two inoperable motor vehicles or used parts and materials thereof, when taken together equal the bulk of two motor vehicles, are stored or deposited. For the purpose of this chapter, “junk yard” includes salvage yard, wrecking yard, used lumber yard and places for storage of salvage wood.
52. “Kennel, dog” means any premises on which four (4) or more dogs, six months old or older, are kept.
53. “Lodging house” means a building where lodging or boarding is provided for compensation for five (5) or more, but not exceeding twenty (20) persons not members of the family therein residing.
54. “Lot” means, for zoning purposes as covered by this chapter, a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated or private street and may consist of:
- A. A single lot of record or a portion of a lot of record;
  - B. A combination of complete lots of record and/or portions of lots of record;
  - C. A parcel of land described by metes and bounds, provided that in no case of subdivision shall any residual lot or parcel be created which does not meet the requirements of this chapter.
55. “Lot line” means the property line bounding a lot.
56. “Lot measurements” means:
- A. “Depth” means the mean horizontal distance between the front and rear lot lines.
  - B. “Width” means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the minimum building setback line.
57. “Lot of record” means a lot which is part of a subdivision or a lot or parcel described by metes and bounds, the deed to which is recorded in the office of the Polk County Recorder.
58. “Lot types” means:
- A. “Corner lot” means a lot located at the intersection of two or more streets.
  - B. “Interior lot” means a lot other than a corner lot with only one frontage on a street, other than an alley.
  - C. “Double frontage lot” means a lot other than a corner lot with frontage on more than one street, other than an alley. Lots with frontage on two non-intersecting streets may be referred to as “through” lots.
  - D. “Reverse corner lot” means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

59. “Manufactured home,” as used in this chapter, means a factory-built structure, which is manufactured or constructed under the authority of 42 USC §5403 and which is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A “mobile home” is not considered to be a manufactured home, unless it has been converted to real property as provided in the Code of Iowa, and shall be taxed as a site-built dwelling.

60. “Mini warehouse” means a building or group of buildings not more than one (1) story and twenty (20) feet in height and not having any other dimension greater than one hundred fifty (150) feet per building, containing varying sizes of individualized, compartmentalized and controlled access stalls or lockers for the dead storage of customers’ goods or wares, excluding junk explosives or flammable materials, and other noxious or dangerous materials, including, if any, caretaker or supervisors’ quarters as an accessory use. No business activities other than rental or storage units shall be conducted on the premises.

61. “Mobile home” means any vehicle which has been designed and constructed to be towed or driven upon the public highway or waterways, and may be used as a place for human habitation or sleeping place for one or more persons, which has not been converted to real property under the provisions of the Code of Iowa.

62. “Mobile home, independent” means a mobile home which has a water closet and a bath tub or shower.

63. “Mobile home service building” means a building housing toilet and bathing facilities for men or women and a “slop-water sink.”

64. “Mobile home space, independent” means a mobile home space which has individual water and sewer connections available.

65. “Mobile home park” means any site, lot or portion of a lot upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park.

66. “Motel,” “motor lodge,” “auto court,” etc. means a building or group of attached or detached buildings containing individual sleeping or living units for nonresidents or transients with garage attached or parking facilities conveniently located to each such unit.

67. “Nonconforming use” means any building or land lawfully occupied by a use at the time of passage of this Zoning Code (or any amendment thereto) which does not conform after the passage of the Zoning Code (or amendment thereto) with the use regulations of the district in which it is situated.

68. “Nursing or convalescent home” means a building or structure having accommodations where care is provided for invalid, infirm, aged, convalescent or physically disabled persons, including insane and other mental cases, and inebriate, but not including contagious cases.

69. “Occupant frontage” means that side or wall of a building in which the main public entrance to the premises is located.

70. "One hundred (100) year flood" means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year as determined by the Iowa Natural Resources Council.
71. "Principal use" means the main use of land or structures as distinguished from an accessory use.
72. "Parking space" means a permanently surfaced area which includes the parking stall plus the maneuvering space required for the parking of motor vehicles. Space for maneuvering, incidental to parking, shall not encroach upon any public right-of-way.
73. "Porch, unenclosed" means a roofed projection which has no more than fifty percent (50%) of each outside wall area enclosed by a building or siding material, other than meshed screens.
74. "Recreational vehicle" means any camping-type vehicle, boat trailer, All-Terrain vehicle trailer, snowmobile trailer or utility trailer used or so constructed as to permit its frequent use as a conveyance upon the public streets or highways and duly licensable as such, and includes self-propelled and nonself-propelled vehicles. For the purposes of this Chapter, recreational vehicles shall not include boats, ATVs, or snowmobiles.
75. "Restaurant" means a business where the dispensing and the consumption at indoor tables of edible foodstuff and/or beverage is the principal business, including a café, cafeteria, coffee shop, delicatessen, lunchroom, tearoom, dining room, bar, cocktail lounge or tavern. The total seating area located within the enclosed portion of the premises is more than fifty (50) percent of the total floor area.
76. "Restaurant, drive-in/carry-out" means an auto-oriented use whose principal operation is the dispensing of edible foodstuff and/or beverage for consumption in automobiles, at indoor or outdoor tables, at standup counters or to be carried off the premises. The total seating area, if provided, is less than fifty (50) percent of the floor area.
77. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling of roof next above it.
78. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.
79. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.
80. "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.
81. "Structural alterations" means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.
82. "Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, "structure" includes buildings, walls, fences, billboards and poster panels.

83. “Truck stop” means any large gas station facility containing more than ten (10) pump dispensers or any gas station designed to accommodate the regular fueling or servicing of semi-trucks.

84. “Vehicle service station” or “Automotive service station” or “lube shop” means any building or premises used for the rendering of minor services and making of adjustments and replacements to motor vehicles, such as oil changes and replacement of filters, and the washing, waxing and polishing of motor vehicles, as incidental to other services rendered.; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are: spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires. No service operations are permitted outside a fully enclosed building. No outdoor storage of parts and/or vehicles in the process of being repaired is permitted.

85. “Yard” means an open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

86. “Yard, front” means a yard extending across the full width of the lot and measured, using the least distance, between the front lot line and the building or any projection thereof, other than the projection of the usual steps.

87. “Yard, rear” means a yard extending across the full width of the lot and measured, using the least distance, between the rear lot line and the principal building, excluding steps, decks, unenclosed balconies and porches. On corner lots, the rear yard is the yard opposite the narrowest front yard.

88. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building.

**165.04 ESTABLISHMENT OF DISTRICTS AND BOUNDARIES.** For the purpose of this Zoning Code, the districts are hereby established within the City, as 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 Code.

A-1	Agricultural District
R-1	Single Family Detached Residential District
R-1A	Single Family Residential District
R-2	One and Two-Family Residential District
R-2A	Townhome Residential District
R-3	Multiple-Family Residential District
R-4	Mobile Home Park Residential District
C-TS	Town Square Business District
C-1	Central Business District
C-2	Commercial District
C-3	Office Park Commercial District
C-4	Neighborhood Friendly Commercial District
M-1	Light Industrial District
M-2	Heavy Industrial District
U-1	Public Utility District
PUD	Planned Unit Development District
GF	Government Facility District
FP	Floodplain Overlay District

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: “This is to certify that this is the Official Zoning Map referred to in the Zoning Code of the City of Polk City, Iowa, adopted on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.” If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the Council.<sup>†</sup> Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made, the Official Zoning Map referred to herein shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. Where there is uncertainty as to the boundaries of districts as shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Code or any subsequent amendment thereto. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as part of the City’s Zoning Code.”

**165.05 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

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<sup>†</sup> **EDITOR’S NOTE:** (See table at the end of this chapter for ordinances amending the zoning map.)

1. No building or structure or part thereof shall hereafter be erected, constructed, reconstructed or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
  - A. To exceed the height limit herein established;
  - B. To accommodate or house a greater number of families;
  - C. To occupy a greater percentage of lot area except as approved by the Planning and Zoning Commission and Council as a non-conforming use of land;
  - D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; or in any other manner be contrary to the provisions of this chapter.
  - E. Which increases its non-conformity.
3. Yards or parts of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall not be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
4. Yards or lots existing at the time of passage of this chapter shall not be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
5. All new residential structures shall meet the minimum square footage requirements as specified in the various zoning districts. The minimum dimension of new residential structures shall be 20 feet in width and length.

#### **165.06 GENERAL REGULATIONS.**

1. Fences, Walls and Vision Clearance.
  - A. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.
  - B. No fence shall be constructed without prior approval of a building permit in accordance with Chapter 156 of this Code of Ordinances. All permit fees shall be in accordance with the fee schedules as established by resolution of the Council.
  - C. In any residential district, a fence or wall not exceeding forty-two (42) inches in height and not greater than 50% opaque is permitted within the limits of front yards or street side yards.
  - D. In any district, fences and walls not exceeding six (6) feet in height are permitted within the limits of interior side and rear yards, with the exception of double frontage lots. Fences and walls in required rear yards of double frontage lots and in the street side yards of corner lots shall not exceed



forty-two (42) inches in height, shall be no greater than 50% opaque, and may encroach a maximum distance of 15 feet into the required rear or street side yard, provided said encroachment does not intrude into a required buffer.

E. In any industrial district, a fence not exceeding eight (8) feet in height is permitted within the limits of rear yards and interior side yards.

F. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment. (This provision does not apply to nursing homes or convalescent homes as herein defined.)

G. Acceptable materials for fences in all yards shall include wrought iron and similar decorative steel, wood, vinyl, polymer, decorative masonry components as approved by the Building Official, or other material approved by the Council. Additional acceptable materials for fences in rear yards and interior side yards only shall also include chain link and vinyl-clad chain link. Unacceptable materials shall include woven wire, barbed wire and electrical fencing.

H. No fences shall be placed in or across easements or in such a manner as to restrict drainage. Fences may be permitted within required buffers if specifically approved by the Building Official.

I. Temporary snow fences shall be permitted from November 1 through April 1 of each year without a permit.

J. On residentially-zoned lots 3.0 acres in size or greater and having a minimum of 200 linear feet of frontage to a public street and no more than one residential building on said lot, residential estate fences shall be permitted within the limits of front yards or street side yards subject to the following:

- (1) Residential estate fences shall be a maximum of eight (8) feet tall with the exception of decorative individual posts or columns which shall be a maximum of nine (9) feet tall.
- (2) Residential estate fences shall maintain a consistency of 50% open space for the full length of said fence. This calculation shall be provided by the applicant in conjunction with the building permit and shall consider all materials including posts, columns, structural supports and fabric.
- (3) Residential estate fence fabric material shall be wrought iron, powder-coated steel or similar decorative metal. Chain link fences of any type are prohibited.
- (4) Residential estate fence columns or posts shall be no closer than eight (8) feet on center. Said columns or posts shall be of permanent construction materials, such as brick or stone; or shall be of wrought iron, powder-coated steel or similar decorative metal to match fence fabric. Concrete block or cast-in-place concrete may be used for structural purposes only.
- (5) Residential estate fences shall not be constructed within the vision triangle bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.

(6) All columns, posts, footings and appurtenances shall be entirely located on private property.

(7) Upon the platting or replatting of a lot, the newly platted lot(s) will be required to meet the then current fence ordinance.

K. On agriculturally-zoned parcels 10.0 acres in size or greater, farm fences shall be permitted within the limits of front yards or street side yards subject to the following:

(1) Farm estate fences shall be a maximum of four (4) feet tall.

(2) Farm fences shall maintain a consistency of 50% open space for the full length of said fence. This calculation shall be provided by the applicant in conjunction with the Building Permit and shall consider all materials including posts, columns, structural supports and fabric.

(3) Acceptable materials for only farm fences shall be woven wire, barbed wire (no more than 3 strands per section), electric fence (no more than 1 strand per section), chain link, vinyl-clad chain link, wrought iron and similar decorative steel, wood, vinyl, polymer, decorative masonry components as approve by the Building Official, or other material approved by Council.

(4) Farm fences shall not be constructed within the vision triangle bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.

(5) All columns, posts, footings and appurtenances shall be entirely located on private property.

(6) Upon the platting or replatting of a parcel, the newly platted lot(s) will be required to meet the then current fence ordinance.

2. 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 twenty (20) feet on a public street, and no lot shall contain any building used for duplex or multiple-family dwelling purposes unless the lot abuts for at least forty (40) feet on a public street. On plats filed after January 1, 2003, the minimum frontage distance for single-family dwellings shall increase to forty (40) feet.

3. Accessory Buildings and Structures. No accessory building shall be erected in any required yard other than a side or rear yard, except as provided herein. Accessory buildings shall be setback at least five (5) feet from rear lot lines and alley lines, and at least three (3) feet from lot lines of adjoining lots, and on a corner lot they shall conform to the setback regulations on the side street as described in paragraph 4 of this subsection. Accessory buildings may be erected as a part of the principal building or may be connected thereto by a breeze-way or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the principal building shall not occupy more than thirty percent (30%) of the required rear yard and shall not exceed sixteen (16) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a garage up to four hundred forty (440) square feet in size on any rear yard that meets the minimum setbacks for the principal structure. No accessory

building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

3a. Mechanical Units. In any residential district, air conditioning compressor-condensers or other mechanical units may be located in any side yard and in any rear yard, provided that: (i) in any side yard adjacent to a street, they shall not be placed more than five (5) feet from the principal structure and shall be screened from the street by a solid fence or plantings; and (ii) in any permitted yard other than a side yard adjacent to a street, the compressor-condenser for any unit of five (5) ton capacity or more shall not be located within twenty-five (25) feet of any lot line and a compressor-condenser with less than five (5) ton capacity shall not be located within five (5) feet of any lot line unless screened therefrom by a solid fence or plantings. In any commercial or industrial district, air conditioning compressor-condensers may be located in any yard adjoining a street if screened therefrom by a solid fence or plantings. Air conditioning compressor-condensers may be located in any side yard which does not adjoin a street and any rear yard, unless the adjoining lot is located in a residential district in which case the residence district regulations shall apply. The bottom edge of required screening in any district shall be no more than six (6) inches above the ground, and the upper edge shall extend not less than one (1) foot above the top of the compressor-condenser.

*(Ord. 2013-100 – April 13 Supp.)*

A. In the “R” districts, a private garage is permitted in the side or rear yard on the same lot with a dwelling. The said garage maybe a separate building, or a separate room within, or attached to the dwelling. When wholly or partially within the limits of the side yard and attached to a principal building, such garage shall be considered as a part of such principal building and shall conform to all yard and space requirements as specified in this chapter. The following regulations and interpretations also apply to this paragraph:

- (1) Each detached private garage or accessory building shall be at least three (3) feet from a party lot line and five (5) feet from the alley line.
- (2) No detached garage or accessory building is permitted within the limits of a front yard.
- (3) A detached garage or accessory building is permitted within the limits of a rear or side yard.
- (4) Detached garages or accessory buildings shall not be placed in any rear yard or any side yard so that any part of such building is nearer a street line than is permitted for a wall of a principal building on the same lot.

B. Public garages providing storage capacity for more than five (5) motor vehicles or in which motor vehicles are repaired for compensation shall not have an entrance or exit for motor vehicles within fifty (50) feet of any “R” district, or within one hundred (100) feet of the entrance or exit of any previously existing public or private school, playground, public library, church, hospital or children’s institutions.

4. Yards. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for the ordinary projections of sky-lights, sills, belt courses, fireplace doghouses, cornices and ornamental features projecting not to exceed twelve (12) inches. Steps may encroach into any yard; however decks, unenclosed balconies and porches may encroach into rear yards only. Where drainage, slope, or soil conditions necessitate the need for a restrictive easement on a plat the City Council, upon recommendation of the Planning and Zoning Commission or City Engineer, may require rear or side yards on said plat to be established based on a measurement from the easement line rather than the property line.

5. Corner Lots. For corner lots or reverse corner lots, the street side yard shall be equal in width to the front yard setback or to the setback regulation of the adjoining lots to the rear having frontage on the intersecting side street, whichever is less. Exceptions to these requirements, if any, are as stipulated in Section 165.14.

6. Double Frontage Lots. Building on through lots extending through from street to street shall provide the required front yard on both streets. Exceptions to these requirements, if any, are as stipulated in Section 165.14.

7. Mixed-Use Yard Requirements. In instances where buildings are erected containing two or more uses housed vertically, the required side yards for the first floor use shall control.

8. Home Occupations.

A. Purpose. The regulations of this chapter dealing with home occupations are designed to protect and maintain the residential character of the neighborhood, while permitting certain limited commercial activities which have traditionally been carried out in a residential dwelling. The use of the dwelling unit for a home occupation shall be clearly incidental to and subordinate to its use for residential purposes by its occupants.

B. Definition of Home Occupation; Representative Activities. Permitted home occupations include, but are not limited to, the following lists of activities; provided, however, each permitted home occupation shall be subject to the limitations hereinafter set forth, and to all other regulations applicable to the district in which it is located:

(1) Facilities used by a physician, surgeon, dentist, lawyer, clergyman, or other professional person, for emergency consultation or treatment, but not for the general practice of such person's profession.

(2) Providing instruction to no more than four (4) students at a time.

(3) Daycare or babysitting of no more than five (5) nonresident children.

(4) Studio of an artist, photographer, craftsman, writer or composer.

(5) Renting of rooms by a resident owner to no more than two (2) roomers.

(6) Millinery, dressmaking, tailoring, canning, laundering, and similar domestic service activities.

C. Limitation on Home Occupation Activities. Wherever, in this chapter, home occupation activities are authorized in any zoning district, such activity may only be undertaken subject to the following limitations, unless otherwise specified:

(1) No person who is not a member of the immediate family and residing on the premises shall be employed in the activity on the premises.

(2) The activity shall be conducted entirely within the principal dwelling unit or in a permitted accessory building.

(3) The activity shall not involve any outside storage nor in any way create, outside the building, any external evidence of the operation.

(4) No alteration of a building shall be made which changes the character and appearance thereof as a residential building.

(5) No more than twenty-five percent (25%) of floor area of the principal building shall be devoted to the home occupation.

(6) No mechanical, electrical, or other equipment shall be used except of a type normally used on a residential premise.

(7) No activity shall be permitted which is noxious, offensive, or hazardous by reason of pedestrian or vehicular traffic, or by creation of noise, odor, refuse, heat vibration, smoke, radiation, or any other objectionable emissions, or by interference with televisions, or radio reception.

9. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Zoning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard, rear yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

10. Open Space. Yards or other open space provided around any building for the purpose of complying with the provisions of this chapter shall not be considered as providing a yard or open space for any other building. The lot area per family shall not be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located. In addition, the minimum total land area devoted to open space in the R-3, R-4, C-1, C-2, C-3, C-4, M-1 and M-2 zoning districts only shall not be less than fifteen percent (15%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped areas, interior or exterior malls, pedestrian walks and ornamental structures, when part of the landscaping theme. Open space shall not include structures or buildings, off-street parking areas, loading areas and access drive. Any owner subject to the requirements of this subsection may make application to the Planning and Zoning Commission for a variance from the same. The Commission shall consider and make recommendation to the Council on the application and variances will be granted only if the owner demonstrates to the

satisfaction of the Commission and Council that application of the open space requirements set forth in this subsection work a peculiar hardship on the owner. A “peculiar hardship” means that the owner’s property is so situated that an insufficient amount of land is available to accommodate the open space requirements given the nature of the proposed development and which makes the proposed development unfeasible. No peculiar hardship will be determined to exist where the proposed use of the property could accommodate the open space requirements when compared to the space required or actually used in connection with other similar uses in the Des Moines Metropolitan area.

11. Temporary Buildings. Temporary buildings, camping trailers, tents, portable or potentially portable structures shall not be used for dwelling purposes in any district. Camping trailers for overnight use are excluded from the above requirement. All temporary buildings require a building permit and shall be inspected. Temporary buildings shall not be utilized for a period exceeding six (6) months. The Council may approve exceptions for public use.

12. Lots of Record. Any lot of record prior to March 25, 1996 which is located in any residence district and which does not comply in area and/or minimum dimensions with the requirements of the district in which it is located may be used for a single-family structure, provided that all setback and other requirements of this chapter are complied with, and that the owner of such lot did not directly or indirectly have legal title to or enjoy the beneficial interest in the lot or lots contiguous thereto on the effective date of this chapter. No building permit shall be issued for construction on any substandard lot, which lot was of record prior to March 26, 1996, if said lot is adjacent and contiguous to another lot which at the time of the adoption of this chapter was in the same ownership or whose ownership had beneficial interest in said lot, unless said lots are combined into one lot meeting the requirements of the zoning district which is applicable.

13. Merchandising in Front Yard. No merchandise shall be offered for sale or rent or be displayed or stored in the required front yard in any commercial or industrial district, provided, however, that dispensing devices for motor fuel, air and water shall be permitted if they are set back at least twelve (12) feet from the property line.

14. Manufactured or Modular Homes. Notwithstanding any other provision in this chapter, the plans and specifications of a proposed residential structure shall not be denied solely because the proposed structure is a manufactured or modular home. However, the manufactured or modular home shall be located and installed according to the same standards which would apply to a site-built single-family dwelling on the same lot. This would include, but not be limited to, a foundation system, setback, and minimum square footage.

15. Recreational Vehicles. Recreational vehicles shall not be used for human occupancy in any district for more than seventy-two (72) hours unless occupied continuously for three months prior to January 1, 2003. Recreational vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings.

#### **165.07 NONCONFORMING USES.**

1. Authority to Continue. Any building, structure or use lawfully established and existing on the effective date of this chapter which does not conform to all of the

regulations of the district in which it is located may be continued, subject to the provisions of this chapter on the effective date thereof, but which does not conform to any subsequent amendment thereof, may also be continued thereafter subject to the provisions of this chapter.

2. Repairs and Alterations. Repairs and alterations may be made to a nonconforming building, provided that no structural alterations shall be made in or to a building, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, except that structural alterations may be made if they are required by law or are necessary to make the building and use thereof conform to the regulations of the district.

3. Additions and Expansions. A nonconforming building which is nonconforming as to size, height or setbacks, or all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to, expanded or enlarged unless such addition, expansion or enlargement conforms to all the regulations of the district in which it is located and unless the entire building thereafter conforms to all of the regulations of the district as to size. A nonconforming use of land shall not be expanded or extended beyond the area it occupies which would make it more nonconforming at the date of the adoption of this chapter.

4. Discontinuation. A building, all or substantially all of which is designed or intended for a use which is not permitted in the district in which it is located which is or hereafter becomes vacant and remains unoccupied or is not used for a period of one year, shall not thereafter be occupied or used except in a manner which conforms to the use regulations of the district in which it is located. If a nonconforming use of land is discontinued for a period of six months, such use shall not thereafter be renewed and any subsequent use of the land shall conform to the regulations of the district in which it is located.

5. Restoration of a Damaged Nonconforming Building. A building, designed or intended for a use which is not permitted in the district in which it is located, which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration shall exceed sixty percent (60%) of the cost of replacement of the entire building, shall not be restored unless such building and use thereof shall conform to all the regulations of the district in which it is located. If the cost of restoration of such damaged building does not exceed sixty percent (60%) of the cost of replacement of the entire building, repairs or reconstruction shall be commenced within one year from the date of the fire or other casualty or act of God and diligently pursued until completion.

6. Uses Under "Special Permit Uses." Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use by special permit.

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**165.08 AGRICULTURAL ZONING DISTRICT REGULATIONS. (A-1)** Agricultural Districts are intended and designed to preserve agricultural areas, primarily located on the fringe of the developed areas, until such time as these areas are rezoned in conformance with the Comprehensive Plan for development. In addition, land designated as conservation reserve or open space on the Comprehensive Plan should be retained in the A-1 District to prevent premature or inappropriate development. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. No temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. Agricultural Districts.
  - A. A-1 Agricultural District. The A-1 District is intended and designed to provide and preserve the agricultural and rural use of land until such time as these areas are rezoned in conformance with the Comprehensive Plan for development.
2. Principal Permitted Uses. Principal permitted uses for agricultural districts are as follows:

<b>PRINCIPAL PERMITTED USE</b>	<b>A-1</b>
Agricultural - animal production of domesticated animals such as poultry and livestock, including feed lots but excluding confinements.	PR
Agricultural - animal raising (personal), provided no building in which animals are quartered shall be closer than 200 feet to the property line.	P
Agricultural - crop production for growing of the usual farm products such as vegetables, fruits, trees and grain and their storage on site provided such storage is secondary to that of the normal farming operation.	P
Agricultural - roadside stands for sale of produce only, livestock sales are not permitted.	PR
Beekeeping - beekeeping provided no hive or building in which bees are kept shall be closer than 250 feet to the property line.	P
Cemeteries	P
Civic - public parks, playgrounds, or community centers and similar uses.	P
Civic - public sports complexes, tennis courts and similar recreational uses.	P
Hotels - residential bed and breakfast.	P
Religious institutions.	P
Residential - boarding houses.	P
Residential - single-family detached dwellings, no more than one per parcel.	P
Other uses equivalent to the permitted uses listed above as determined by P & Z and approved by Council. Criteria for equivalency include but are not limited to traffic, odors, noise, and lighting levels.	PR
Notes: P = Permitted Use PR = Permitted Use With Restrictions Blank = Use Not Permitted	

3. Restrictions for Principal Permitted Uses: The following restrictions shall apply to the appropriate Permitted Use With Restrictions (“PR”) in agricultural zoning districts:
  - A. Animal Production:

(1) Animal feedlots are permitted for concentrated feeding of animals within a confined area.

(2) No more than 1 animal will be permitted for every three acres of property that is available for animal production, up to a maximum of 200 total head of animals.

(3) No animals, animal feedlots or buildings quartering animals shall be located within 1000 feet of any residential or commercial zoning district.

(4) No feedlots or building in which animals are quartered shall be located closer than 200 feet to any pre-existing dwelling, church, school or place of business on abutting property.

(5) No feeding of garbage or offal to swine or other animals shall be permitted.

B. Roadside Stands:

(1) Roadside stands are seasonal structures that are temporary in nature and are less than 200 square feet in size. Nurseries and garden centers are not considered roadside stands.

(2) Roadside stands may have one non-lighted sign on the premises not to exceed 48 square feet in area. The sign shall not be placed in public right-of-way.

(3) Roadside stands shall require P & Z and Council approval of a temporary site plan.

(4) Roadside stands shall require a peddler's permit, if applicable.

4. Accessory Uses. The following accessory uses are permitted in agricultural zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Agricultural accessory buildings and structures to house agricultural equipment or permitted livestock, excluding buildings and structures used for animal confinement, subject to the following:

(1) Minimum setback for any agricultural accessory building or structure shall be at least 25 feet from all property lines.

(2) Pole buildings are permitted for agricultural accessory buildings.

C. Private garage or carport.

D. The home office of a physician, dentist, artist, attorney, architect, engineer, teacher or other member of a recognized profession, in said person's bona fide and primary residence; provided that not more than one assistant shall be regularly employed therein and no colleagues or associates shall use such office and not more than one half the area of one floor shall be used for such office. It is not the intention of this paragraph to include dance studios, music studios, beauty parlors or barber shops, or uses usually referred to as customary home occupations.

E. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two per building.

F. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

5. Accessory Structures. Accessory structures may be constructed in agricultural lots as permitted in Section 165.06 of this chapter.

6. Site Development Regulations.

<b>Regulator</b>	<b>A-1</b>
Minimum Lot Area	10 acres
Minimum Lot Width	200 feet
Minimum Front Yard	75 feet
Minimum Rear Yard	75 feet
Minimum Side Yard	50 feet
Building Height Limit – principal use	2-1/2 stories or 35 feet
Building Height Limit – agricultural accessory uses	3 stories or 40 feet
Building Height Limit – other accessory uses	1 story or 16 feet

7. Platting.

A. Plats of Subdivision shall not be approved in the A-1 zoning district.

B. Plats of Survey submitted in accordance with Chapter 170 may be approved provided there shall be no more than one split of land, whether said splits are simultaneous or consecutive. Further splitting of land shall require a Plat of Subdivision and are not permitted in the A-1 District.

8. Off-Street Parking. Off-Street parking shall be provided as required by Section 165.16 for all agricultural districts.

9. Site Plans. Site plans shall be required for all uses in all agricultural districts except single family and two-family residential dwellings and agricultural uses,. See Chapter 157 for Site Plan requirements.

10. All territory which is annexed to the City shall be considered as lying within the A-1 Agricultural District until such classification has been changed by amendment in accordance with the provisions of this Zoning Ordinance.

11. Exceptions. See Section 165.14 for exceptions to the agricultural zoning district regulations.

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**165.09 RESIDENTIAL ZONING DISTRICT REGULATIONS.** (R-1, R-1A, R-2, R-2A, R-3, R-4) The residentially zoned districts are intended to provide for residential areas of various densities, to promote neighborhood quality of life, and to provide for those areas in a manner consistent with the comprehensive plan. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. Not temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. Residential Districts.
  - A. R-1 Single Family Detached Residential District. The R-1 District is intended to provide for the development or redevelopment of low-density residential areas of the City with one-family detached dwellings on individual platted lots.
  - B. R-1A Single Family Residential District. The R-1A District is intended to provide for the development or redevelopment of low-density residential areas of the City with single family dwellings on smaller individual platted lots.
  - C. R-2 One and Two-family Residential District. The R-2 District is intended to provide for the development or redevelopment of low-density residential areas of the City with one and two-family dwellings on platted lots.
  - D. R-2A Townhome Residential District. The R-2A District is intended to provide for development or redevelopment of medium-density residential areas of the City with townhome dwellings having at least two and no more than six dwelling units in one structure.
  - E. R-3 Multiple-Family Residential District. The R-3 District is intended to provide for redevelopment of higher-density residential areas now developed with one-family, two-family, multiple-family dwellings and condominiums and for development of areas where similar residential development seems likely to occur.
  - F. R-4 Mobile Home Park Residential District. The R-4 District is intended to provide for the development of certain medium density residential areas, which by reason of their design and location are compatible with surrounding residential areas, with mobile home parks.
2. Principal Permitted Uses. Principal permitted uses for residential districts are as follows:

<b>RESIDENTIAL ZONING DISTRICTS</b>						
<b>PRINCIPAL PERMITTED USE</b>	<b>R-1</b>	<b>R-1A</b>	<b>R-2</b>	<b>R-2A</b>	<b>R-3</b>	<b>R-4</b>
Agricultural - crop production only for growing of farm products such as vegetables, fruits, trees and grain but excluding crop storage, animal production or raising or roadside stands.	P	P	P	P	P	P
Civic - private clubs, lodges or veterans organizations, excepting those holding a beer permit or liquor license.					P	
Civic - public museums, libraries, or community centers and similar uses.	P	P	P		P	
Civic - public or private parks and playgrounds.	P	P	P	P	P	P
Education - child care, including daycares and preschools which are operated as an accessory use to a church or primary school.	P		P		P	
Education - child care, including daycares and preschools which are operated as an accessory use to a single family detached residential use.	P	P	P	P	P	
Education - colleges and universities, including classrooms, administration buildings and athletic facilities but excluding commercial trade schools and business colleges.					P	
Education - primary and secondary schools, public & private, excluding boarding schools.	P	P	P		P	
Education - residential housing including dormitories, fraternities and sororities if recognized by the local college or university.					P	
Hotels – residential bed & breakfast (less than 3 units).		P	P		P	
Hotels - bed & breakfast inn (up to 12 units)				P	P	
Religious institutions.	P	P	P			
Residential - boarding houses.	P		P		P	
Residential - mobile home parks.						PR
Residential - multiple-family dwellings (up to 6 dwelling units per building) including apartments, townhomes and condominiums.				P	P	
Residential - multiple-family dwellings (more than 6 dwelling units per building) including apartments, townhomes and condominiums.					P	
Residential - nursing homes, Assisted Care facilities, Independent Care facilities, and group homes.					P	
Residential - single-family, bi-attached and duplexes.			P		P	
Residential - single-family, detached.	P	P	P	P	P	
Residential - single-family garden homes in townhome regime		P	P	P	P	
Residential - townhomes, attached or detached (up to 6 units per building).				P	P	
Residential - two-family dwellings.			P		P	
<p><b>Key:</b>                      P = Permitted Use                      PR = Permitted Use With Restrictions provided said use is permitted as determined by P&amp;Z and approved by City Council                      Blank = Use Not Permitted</p>						

3. Restrictions for Principal Permitted Uses
  - A. Child Care, Daycares and Preschools, are subject to the following restrictions:
    - (1) The building used for such purposes is located not less than twenty (20) feet from any other lot in any residential district.
    - (2) There shall be provided for each child a minimum of thirty-five (35) square feet of usable floor space, exclusive of wash rooms, toilets, kitchens and hallways.
    - (3) There shall be provided for each child a minimum of one hundred (100) square feet of usable outdoor play space, which space shall be confined to the rear yard of the property and be completely enclosed by a fence.
  - B. Mobile Home Parks are subject to the following restrictions:
    - (1) A Master Plan and Development Agreement shall be required for all mobile home parks in conformance with Chapter 171. Master Plans shall be submitted in conjunction with the petition for rezoning and shall be approved prior to rezoning any property to R-4.
    - (2) No mobile home park, or any initial stage thereof, shall contain less than fifty (50) mobile home spaces.
    - (3) At least one storm shelter shall be constructed in each mobile home park which is acceptable to the City Council as to size, location and construction materials and shall be constructed and maintained as shown on the approved Site Plan.
    - (4) Parking shall be permitted on only one side of any public or private street within or adjoining the mobile home park. No parking shall be permitted on the south and/or east side of the street unless otherwise designated on the approved Site Plan.
    - (5) The parking and/or storage of recreational vehicles including boats, campers, snowmobiles, four-wheelers and travel trailers shall not be permitted except in a paved parking lot designated on the approved Site Plan for such use.
    - (6) Every mobile home shall be supported and set, and tie-downs or anchors provided, as specified in the manufacturer's instructions or, in their absence, according to the minimum requirements as specified in Division VI, Part 2 of the Iowa State Building Code.
    - (7) Only independent mobile homes shall be used for residential purposes which:
      - a. Are designed for long-term occupancy and contains a flush toilet, a tub or shower, and kitchen facilities;
      - b. Require a connection to outside sewer and water systems because a waste holding tank and water storage tank are not integral parts of the mobile home;
      - c. Are at least thirty-two (32) feet in body length exclusive of trailer hitch when factory equipped for the roads;

- d. Are not built on a self-propelled motor chassis;
- e. Are not identified as a recreational vehicle, such as a camping trailer or motor home, by the manufacturer.

(8) Skirting of permanent type material and construction sufficient to provide substantial resistance to high winds shall be installed within ninety (90) days after the placement of the mobile home to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand. The skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and the appearance of the mobile home park.

(9) Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand but shall not exceed sixty (60) days.

4. Accessory Uses. Uses not permitted as a principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted in this subsection. The following accessory uses are permitted in residential zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Private garage or carport.

C. The home office of a physician, dentist, artist, attorney, architect, engineer, teacher or other member of a recognized profession, in said person's bona fide and primary single-family detached residence; provided that: not more than one assistant shall be regularly employed therein and no colleagues or associates shall use such office and not more than one-half the area of one floor shall be used for such office. It is not the intention of this paragraph to include dance studios, music studios, beauty parlors or barber shops, or uses usually referred to as customary home occupations.

D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

E. Temporary use of a dwelling structure within a new subdivision for use as a job office and real estate office for the subject subdivision, which use shall terminate upon substantial completion (75% of the lots or units have been sold by the developer) or abandonment of the project (lots, units or homes are not available for sale by developer).

F. In the R-3 district, developed as a Independent Living or Assisted Living Facility, an accessory management office, retail convenience or service shop may be permitted provided that such complex be under one management or similar control and contains more than 30 permanent dwelling units and provided that:

- (1) Such shops are located on the first floor or lower and there is no entrance to such place of business except from the inside of the building or internal courtyard.



(2) Display of any stock, goods or advertising is so arranged that it cannot be viewed from outside the building.

(3) No advertising sign shall be permitted that exceeds one (1) square foot in area.

G. Club houses within a residential subdivision where ownership is maintained under a homeowners association. Clubhouses shall be constructed of materials similar to the principal structures within the development and shall meet all site development regulations specified herein. Parking shall be provided at a rate of five (5) stalls per 1,000 square feet of gross floor area.

H. In the R-4 District, management offices, service buildings, maintenance buildings, storm shelters, recreation buildings, vending and/or food services including groceries, coin operated laundry facilities and mini-storage units, may be permitted if approved by Council on a Site plan as subordinate use to the mobile home park.

5. Accessory Structures. See Section 165.06.

6. Site Development Regulations. Dimensional requirements for residential districts are as follows:

SITE DEVELOPMENT REGULATIONS FOR RESIDENTIAL DISTRICTS						
Regulator	R-1	R-1A	R-2	R-2A	R-3	R-4
Minimum Lot Area <sup>2</sup> (square feet)	10,000	6,400	8,000 -SF 10,000 -2F <sup>8</sup> 4,000 -BI	9,000	7,500 -SF 8,750 -2F 4,375 -BI 12,500 -MF	20 acres
Lot Area per Dwelling Unit <sup>4</sup> (square feet)				3,000	2,500	5,000 <sup>7</sup>
Minimum Lot Width <sup>2</sup> (linear feet):	80 <sup>2</sup>	65	65 -SF 85 -2F <sup>8</sup> 38 -BI	85 <sup>5</sup> -TH 100 -MF	65 -SF 75 -2F 38 -BI 85 <sup>5</sup> -TH 100 -MF	
Min. Front Yard Depth (feet)	35	30	30	30	30	50
<u>Min. Rear Yard Depth<sup>6</sup></u> (feet)						
Dwellings	35	20	35	35	40	50
Other Principal Structures	45	20	35	35		
<u>Min. Side Yard Depth<sup>1,6</sup></u> (feet)						
One or Two Family Detached	8 <sup>3</sup>	8	8 <sup>3</sup>		8	50
Other Principal Structures	20	20	15	12.5	12.5	
<u>Building Height Limit</u>						
Principal Structure (stories)	2 ½	2 ½	2½	3	3	1
Principal Structure (feet)	35	35	35	40	45	20
Accessory Structure (feet)	16	16	16	16	16	16
<u>Key:</u>	SF = Single Family		2F = Duplex, Two-family			
	BI = Single-family Bi-attached		TH = Townhome			
	MF = Multiple-family					

**Notes:**

1. On corner lots, street side yard shall equal front yard depth except for lots of record prior to January 1, 2003.
2. Except where water and/or sewer is not available, the minimum lot area shall be 40,000 square feet and the minimum lot width shall be 150 feet
3. Except for lots of record prior to December 19, 1991 having a lot width of less than 75 feet, the side yards may be reduced for single-family dwellings only as follows: (a) Each side yard may be reduced to not less than ten percent of the lot width; and (b) on corner lots, only the interior side yard may be reduced below 8 feet.
4. If the development maintains common areas under single management or control, the total required lot area for all dwelling units may be provided through a combination of private lots and common outlots.
5. Minimum lot width is for three (3) dwelling units in one townhome structure, additional interior units shall have 25 feet of lot width for each additional unit.
6. Except where rear or side demising wall is a permitted common wall between dwelling units.
7. Each mobile home space shall have a 25 feet front yard measured from edge of private street to closest face of mobile home, a 15 feet rear yard measured from rear space line to closest face of mobile home, and a 20 feet side yard separation between mobile homes. All accessory structures shall have a 25 feet yard on all sides except garages which shall have the same yard requirements for mobile homes.
8. Except for Lots of Record created in an R-2 district prior to January 14, 2013, which shall require a minimum lot area of 8,000 square feet and a minimum width of 75 feet for two-family dwellings.

7. Off-Street Parking. Off-street parking shall be provided as required by Section 165.16 for all residential districts. In addition, the following requirements shall apply:

A. All dwelling units constructed after the adoption of this ordinance located within any permitted zoning district shall have a minimum two-car, enclosed garage, except for apartment dwellings having less than three (3) bedrooms per unit.

B. All apartment dwelling units having less than three (3) bedrooms constructed after the adoption of this ordinance located within any permitted zoning district shall have a minimum one-car, enclosed garage area per unit.

C. Carports shall not be considered as an acceptable enclosed garage or garage area.

8. Site Plans. Site plans shall be required for all uses in all residential districts except single family and duplex family residential dwellings. See Chapter 157 for Site Plan requirements.

9. Division of Single-family lots of record. In any residential district, single-family lots previously platted in a subdivision of similarly sized single-family residential lots shall not be further subdivided or split by a Plat of Survey or by Specific Quantity Description. No building permits shall be issued for either parcel on any such lot so split.

10. Architectural Design Standards. Architectural Standards shall be required in conformance with the provisions of Section 157.09 of this ordinance.

11. Open Space Requirements. Open space requirements shall be required in conformance with Section 165.06, subsection 10, of this chapter.

12. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.17 of this chapter.

13. Exceptions and Modifications. See Section 165.14 for exceptions to the R-1, R-2 and R-3 district regulations. However, there shall be no exceptions to the requirements of the R-1A, R-2A or R-4 zoning district regulations and the provisions of Section 165.14 and the provisions of Section 165.06, subsections 5 and 12 shall not apply to said districts.

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**165.10 COMMERCIAL ZONING DISTRICT REGULATIONS.** (C-TS, C-1, C-2, C-3, C-4) The commercially zoned districts are intended to provide for high quality area of various densities and intensities in an effort to promote quality of life, health and general welfare of citizens and visitors while providing a large variety of services and shopping, all consistent with the Comprehensive Plan. It shall be generally recognized that the type of use is not so important as the manner in which the use is accomplished. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Commercial Districts.
  - A. C-TS Town Square Business District. The C-TS District is intended to provide appropriate development regulations around the historic Town Square. A variety of commercial uses are permitted, with ground level retail and office uses and upper level office or residential uses. This grouping of uses is designed to strengthen the town square's role as a center for trade, service and civic life.
  - B. C-1 Central Business District. The C-1 District recognizes the unique mixed use character of the area surrounding the town square. The development regulations are intended to provide for one- and two- family residential uses interspersed with a variety of commercial uses in a harmonious manner.
  - C. C-2 Commercial District. The C-2 District is intended and designed to provide for general uses and activities of a retail business, service industry or professional office character that, by nature of their business, provide service and commodities that benefit the community at large. These uses may create land use conflicts with adjacent residential areas, requiring sensitivity in design. This district is most appropriately located along arterial streets or in areas that can be adequately buffered from residential districts.
  - D. C-3 Office Park Commercial District. The C-3 District is intended and designed to provide for the development of business, professional, and public service offices and office buildings. Auxiliary uses, such as restaurants, will be allowed primarily to serve the needs of existing office uses within the same C-3 district
  - E. C-4 Neighborhood Friendly Commercial District. The C-4 District is intended and designed to provide for personal services for nearby residences and convenience shopping of the locally travelling public. Uses are intended to be low-intensity businesses that are wholly contained within the buildings. The design of buildings in the district is encouraged to be residential in character, with pitched roofs and landscaping, to blend with nearby neighborhoods.
2. Principal Permitted Uses. Principal permitted uses for commercial districts are as follows:

<b>COMMERCIAL ZONING DISTRICTS</b>					
<b>PRINCIPAL PERMITTED USE</b>	<b>C-TS</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>
Animal boarding and kennels, domesticated only.	PR	PR	PR		
Animal hospitals and Veterinary Clinics.			P		
Auditoriums, Movie Theaters.	P	P	P		
Automotive - automobile, truck & equipment sales & service.			P		
Automotive - service and repairs, including tire sales & repair and small engine repair.			P		
Automotive - Truck or trailer rental establishments.			P		
Automotive - vehicle wash.		P	P		
Automotive Supply (retail).	P	P	P		
Banks and Financial Institutions, including ATM machines and drive-thru teller lanes.	P	P	P	A	PR
Business and Professional Offices and Agencies.	P	P	P	P	P
Cemetery Services - Funeral Homes, Mortuaries.	PR	PR	P		
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P	P	P		P
Civic - Private Clubs, lodges, youth centers or veterans organizations, except those holding a beer permit or liquor license.	PR	PR	P	A	P
Civic - Public parks and playgrounds.	P				
Civic - Town Square, Farmer's Market.	P				
Commercial Entertainment - (indoors) including fitness centers and amusement centers except Studios and Adult Entertainment.		PR	P	A	
Commercial Entertainment - Adult Entertainment.			PR		
Commercial Recreation (primarily outdoors) including private playgrounds, parks and golf courses; and amusement enterprises.	PR		PR		
Convenience Stores, Gas Stations.		P	P	A	
Drinking Establishments, Billiard Halls.	PR	PR	PR	A	
Education - Colleges and Universities; including classrooms, administration buildings and athletic facilities.					P
Education - Child Care, including Daycares and Pre-schools.	P	P	P	A	P
Education - Commercial Trade Schools and Business Colleges.			P	A	
Education - Primary and Secondary schools, public & private.					P
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.					P
Hotels - Bed & Breakfast / B&B (up to 3 units) and Bed & Breakfast Inns (up to 12 units).	P	P	P		P
Hotels - hotels, motels, B&B Hotels (more than 12 units), and lodging houses.	PR		P		
Laundry - dry cleaning operations occupying more than 6000 square feet of gross floor area.	PR	PR	PR		
Laundry - laundrettes, coin-operated - pressing, repair, dry cleaning pickup and dry cleaning operations occupying less than 6000 square feet of gross floor area.	P	P	P		PR

PRINCIPAL PERMITTED USE	C-TS	C-1	C-2	C-3	C-4
Medical Hospitals.			P	P	
Medical Offices, Health Clinics.	P	P	P		P
Nurseries and Greenhouses.			P		
Post Office Substations.	P	P	P		
Printing and publishing houses.			P		
Religious Institutions.	PR	PR	PR		PR
Residential - Apartments located only on second floor and above.	P	P			P
Residential - Boarding Houses.					P
Residential - Multiple-family apartments and condominiums; and townhomes, either attached or detached.					P
Residential - Nursing homes, Assisted Care Facilities, Independent Care Facilities, and group homes.					PR
Residential - Single-family and two-family dwellings.		P			
Restaurants - coffee shops with drive-through.	PR	PR	PR	A	PR
Restaurants - Delicatessens, ice cream parlors, and Fast Food including carry-out.	P	P	P	A	P
Restaurants - Fast Food drive-through.	PR	PR	PR	A	
Restaurants - Full service sit-down.	P	P	P	A	P
Retail bakeries and dairy stores.	P	P	P	A	P
Retail grocery stores, supermarkets; drug stores.	PR	PR	P		
Retail Hardware & Lumber Yards, building material sales yards, millwork.			PR		
Retail Hardware stores; Home Improvement stores excluding outdoor sales yards.	P	P	P		
Retail shops (less than 6000 sf).	P	P	P	A	P
Retail stores (6000 sf and larger).		P	P		
Retail stores with associated manufacturing such as pottery shops with kilns.	PR	PR	PR		
Retail stores with incidental repairs (appliance, bicycle, jewelry).	P	P	P		
Salons - Hair, nail.	P	P	P		P
Studios - Music, Photographic, Dance, and Fitness Centers, all less than 6000 sf in size.	P	P	P	A	
Warehouse - Locker storage & retail sales only.		P			
Other retail business or service establishments equivalent to the permitted uses listed above.	PR	PR	PR	PR	PR
<p><b>Key:</b>                      P = Permitted Use                      PR = Permitted Use With Restrictions provided said use is permitted as determined by P&amp;Z and approved by City Council                      A = Auxiliary Use With Restrictions, provided said use is permitted as determined by P&amp;Z and approved by City Council                      Blank = Use Not Permitted</p>					

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions

A. Outdoor storage of materials or equipment is not permitted in the C-2, C-3 or C-4 Districts except and specifically approved by Council on a Site

Plan. Said storage shall be limited to areas designated on the site plan and shall be maintained and screened in conformance to the site plan.

B. Automobile, truck and equipment sales and service shall be permitted provided that all outside storage, display and parking areas shall be used and maintained in conformance with an approved site plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the site plan. All storage shall be on paved surfaces.

C. No uses shall be permitted to be established or maintained in any District which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

D. Permitted uses with restrictions shall demonstrate said use will not have any detrimental impact on existing neighboring uses due to traffic congestion or parking needs, particularly in the C-TS, C-1 and C-4 districts.

E. Adult Entertainment Business uses shall be subject to the following restrictions:

(1) These uses shall not be located within 1,500 feet of any other adult entertainment use; within 1, 500 feet of any public, parochial or private school, licensed daycare facility, regular school bus stop, church, public park, supermarket, convenience store or restaurant catering to family trade; or within 1,500 feet of any residential or agricultural zoning district or residentially-used or agriculturally-used property. Said distances shall be measured from property line to property line.

(2) All building openings, entries, exits, windows and the like shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. For new construction, and whenever else it is considered feasible by the Zoning Enforcement Officer, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.

(3) Advertisement, displays, signs or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, trails, or other public or semi-public areas.

(4) Notwithstanding anything to the contrary otherwise set forth in this chapter, adult entertainment businesses shall be permitted only in the C-2 zoning district and then only in compliance with the other restrictions set forth herein. It is the intent of this provision to permit the location of adult entertainment businesses solely in areas zoned C-2 and not in any other district including but not limited to agricultural, residential or industrial districts.



- F. Religious Institutions shall be subject to the following restrictions:
- (1) Religious Institutions that have not received Site Plan approval by the City Council as of the effective date of this Ordinance shall not be permitted in the C-2 Commercial District.
  - (2) Religious Institutions for which a Site Plan has been approved by City Council as of the effective date of this Ordinance shall be considered a permitted use in the C-2 Commercial District. Subsequent amendments to the Site Plan for improvements including but not limited to additional parking areas, access roads, and building additions, may be considered for approval by City Council.  
(*Ord. 2015-600 – Jan. 16 Supp.*)

4. Auxiliary Uses. An auxiliary use shall mean a conditional use consisting of certain low-intensity commercial establishments which are primarily intended, designed and utilized to serve the proven needs of the principal permitted uses within the same zoning district. Possible auxiliary uses are noted with an “A” in the Permitted Principal Uses table for commercial districts. Auxiliary uses shall only be approved within a C-3 District in conjunction with a Site Plan and only provided the following conditions are satisfied:

- A. The auxiliary uses shall primarily serve the needs of the principal permitted uses within the same C-3 district that are either in existence or will be constructed at or about the same time as the auxiliary use.
- B. The design, aesthetics, location and character of the auxiliary structure or use shall be compatible with the principal permitted uses with the C-3 District.
- C. The auxiliary use shall not adversely affect the setting and quality of development for the principal permitted uses within the C-3 District due to over concentration or over saturation of auxiliary uses with the same district.
- D. The auxiliary use shall not generate substantial additional traffic nor create traffic congestion beyond that which would occur if any principal permitted use was to locate on the same site.
- E. The auxiliary use shall not be hazardous, detrimental, or disturbing to principal permitted uses, nor to adjoining of abutting properties due to dust, glare, noise, smoke, odor, fumes, vibration or other effects not consistent with the principal permitted uses within the C-3 District.

5. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted in this subsection. The following accessory uses are permitted in commercial zoning districts:

- A. Customary accessory uses and structures incidental to the permitted principal uses.
- B. Private garage or carport in association with a permitted residential use.
- C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

6. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.

7. Site Development Regulations. Dimensional requirements for commercial districts are as follows:

<b>SITE DEVELOPMENT REGULATIONS FOR COMMERCIAL DISTRICTS</b>					
<b>Regulator</b>	<b>C-TS</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>
Building Height Limit	3 Stories or 45 feet	3 Stories or 45 feet	4 Stories or 60 feet	None	2 Stories or 35 feet
Minimum Lot Area	None <sup>4</sup>	None <sup>4</sup>	None	None	None <sup>4</sup>
Minimum Lot Width	None	None	None	None	None
Minimum Front Yard Depth	None	None <sup>5</sup>	25 feet	25 feet	25 feet
Minimum Side Yard Depth	None	None <sup>2</sup>	None <sup>1</sup>	None <sup>1</sup>	None <sup>2</sup>
Minimum Rear Yard Depth	None <sup>1</sup>	None <sup>2</sup>	35 feet <sup>1,3</sup>	35 feet <sup>3</sup>	35 feet <sup>3</sup>

**Notes:**

1. Except 20 feet where adjacent to “R” residential districts or the width of the required buffer easement, whichever is greater.
2. Except 20 feet where adjacent to “R” residential districts or the width of the required buffer easement, whichever is greater, and except for structures building containing dwelling units which shall have sides of 8 feet minimum and rear yards of 15 feet minimum.
3. For each foot that the front yard is increased over 25 feet, the rear yard may be decreased proportionately, except that where the rear yard adjoins an “R” District, there shall be a minimum rear yard of 20 feet required adjacent to said lot line or the width of the required buffer easement whichever is greater.
4. Except where residential uses are permitted, lot area shall be 1000 square feet minimum per dwelling unit.
5. For one- and two-family dwellings, the front yard shall be the average of the existing established building setbacks of all similar dwellings within 250 feet of the property as measured along right-of-way line(s).
6. Permitted single-family detached dwellings in the C-1 District must meet the minimum lot area and lot width requirements of the R-1A district.
7. Permitted two-family dwellings in the C-1 District must meet the minimum lot area and lot width requirements of the R-2 district.

*(Ord. 2013-100 – April 13 Supp.)*

8. Off-Street Loading. Off-street loading shall be provided as required by Section 165.15 for all commercial districts with the exception of C-TS zoning district.

9. Off-Street Parking. Off-street parking shall be provided for all uses in all commercial districts with the exception of retail shops, offices, restaurants (except fast food restaurants) and similar low-intensity uses in the C-TS zoning district. See Section 165.16 for off-street parking requirements. In addition, each dwelling unit constructed after the adoption of this ordinance located within a C-1 district shall have a minimum two-car garage with the exception of apartment units with less than three bedrooms which shall have a minimum one-car garage.

10. Site Plans. Site plans shall be required for all uses in all commercial districts except single family and duplex family residential buildings in the C-1 zoning district. See Chapter 157 for Site Plan requirements.
11. Architectural Design Standards. Architectural Standards shall be required for all uses in all commercial districts consistent with the provisions of Section 157.09.
12. Open Space Requirements. Open space requirements shall be required for all commercial zoning districts, with the exception of the C-TS District, in conformance with Section 165.06, subsection 10, of this chapter.
13. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.17 of this chapter.
14. Signs. All signage including, but not limited to, building and wall signs, monument and pole signs, shall be in conformance with Chapter 166.
15. Exceptions and Modifications. See Section 165.14 for exceptions to the commercial zoning district regulations.

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**165.11 INDUSTRIAL ZONING DISTRICT REGULATIONS.** (M-1, M-2) The industrially zoned districts are intended to provide for manufacturing processes of various intensities needed on a local, State or national level while promoting the quality of life, health, and general welfare desired by the citizens of the City, all consistent with the Comprehensive Plan. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Industrial Districts.
  - A. M-1 Light Industrial District. The M-1 district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development while assuring that facilities are served with adequate parking and loading facilities and buffered from less intensive uses.
  - B. M-2 Heavy Industrial District. The M-2 district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.
2. Principal Permitted Uses. Principal permitted uses for industrial districts are as follows:

<b>INDUSTRIAL ZONING DISTRICTS</b>		
<b>PRINCIPAL PERMITTED USE</b>	<b>M-1</b>	<b>M-2</b>
Animal boarding and kennels, domesticated only.	P	P
Animal hospitals and Veterinary Clinics.	P	P
Animal Livery stable or riding academy.		P
Auditoriums, Movie Theaters.	P	P
Automotive - automobile, truck & equipment sales & service.	P	P
Automotive - service and repairs, including tire sales & repair and small engine repair.	P	P
Automotive - assembly or major repairs, machine shops.	P	P
Automotive - body and fender repair shop, but not including automobile wrecking or used parts yards, or outside storage of automobile component parts.	P	P
Automotive - Tire vulcanizing, re-treading and recapping.		P
Automotive - Truck or trailer rental establishments.	P	P
Automotive - truck stop, , including repairs.	P	P
Automotive - vehicle wash.	P	P
Automotive Supply (retail).	P	P
Banks and Financial Institutions, including ATM machines and drive-thru teller lanes.	P	P
Business - Business and Professional Offices and Agencies.	P	P
Business – Technology business related to manufacturing, research and distribution.	P	P
Cemetery Services - Funeral Homes, Mortuaries.	P	P
Cemetery Services - Cemeteries.		
Cemetery Services - Crematories, if not less than 200 feet from any "R" district.	P	P

<b>PRINCIPAL PERMITTED USE</b>	<b>M-1</b>	<b>M-2</b>
Cemetery Services - Monument Sales and engraving.	P	P
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P	P
Civic - Public parks and playgrounds.		
Commercial Entertainment - (indoors) including fitness centers and amusement centers except Studios and Adult Entertainment.	PR	PR
Commercial Recreation (primarily outdoors) including private playgrounds, parks and golf courses; and amusement enterprises.	PR	PR
Convenience Stores, Gas Stations.	P	P
Drinking Establishments, Billiard Halls.	P	P
Education - Child Care, including Daycares and Pre-schools.	P	P
Education - Commercial Trade Schools and Business Colleges.	P	P
Education - Primary and Secondary schools, public & private.		
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.	P	P
Laboratories - film, testing, experimental.	P	P
Laundry - Bag, carpet and rug cleaning.	P	P
Laundry - dry cleaning operations occupying more than 6000 sf of gross floor area.	P	P
Laundry - launderettes, coin-operated - pressing, repair, dry cleaning pickup and dry cleaning operations occupying less than 6000 square feet of gross floor area.	P	P
Manufacture and repair of electric signs, advertising structures, light sheet metal products, and heating & ventilating equipment.	P	P
Manufacture of musical instruments, novelties and molded rubber products.	P	P
Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or natural gas.	P	P
Manufacture or assembly of electrical appliances, instruments and devices.	P	P
Manufacturing creameries, bottle works, wholesale ice and ice cream plants, cold storage warehousing and distribution stations.	P	P
Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.	P	P
Manufacturing, distribution, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, and food products, except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.		P
Medical Hospitals.	P	P
Metals - Blacksmith, welding, cooperage works or other metal shop including enameling, lacquering or painting with controlled emissions not causing noxious fumes or odors.	PR	P
Metals - Foundry casting lightweight non-ferrous metals or electric foundry, not causing noxious fumes or odors.		P
Mineral Extraction, sand & gravel pits, and smelting of ores.		P
Nurseries and Greenhouses.	P	P
Post Office Substations.	P	P
Printing and publishing houses.	P	P
Public Transportation terminals, including bus stations, airports and landing fields.	PR	PR
Religious Institutions.	P	P

<b>PRINCIPAL PERMITTED USE</b>	<b>M-1</b>	<b>M-2</b>
Restaurants - coffee shops with drive-through.	PR	PR
Restaurants - Delicatessens, ice cream parlors, and Fast Food including carry-out.	P	P
Restaurants - Fast Food drive-through.	PR	PR
Restaurants - Full service sit-down.	P	P
Retail bakeries and dairy stores.	P	P
Retail Farm Machinery and Mobile/Modular Home sales and repair.	P	P
Retail grocery stores, supermarkets; drug stores.	P	P
Retail Hardware & Lumber Yards, building material sales yards, millwork.	P	P
Retail Hardware stores; Home Improvement stores excluding outdoor sales yards.	P	P
Retail shops (less than 6000 sf).	P	P
Retail stores (6000 sf and larger).	P	P
Retail stores with associated manufacturing such as pottery shops with kilns.	P	P
Retail stores with incidental repairs (appliance, bicycle, jewelry).	P	P
Salons - Hair, nail.	P	P
Sawmill, planing mill, and manufacture of wood products not involving chemical treatment.	P	P
Studios - Music, Photographic, Dance, and Fitness Centers, all less than 6000 sf in size.	P	P
Tannery.		P
Warehouse - Locker storage & retail sales only.	P	P
Warehouse - Mini-storage, RV storage, Boat Storage.	P	P
Warehouse storage & distribution of explosives, liquid fertilizer or coal.		PR
Warehouse storage & distribution of non-flammable, non-explosive and non-perishable goods.	P	P
Wholesale - Bakeries.	P	P
Wholesale storage or refining of petroleum, ethanol or products thereof including asphalt plants.		SP
Yards - Circus, carnival or similar transient enterprise, provided such structures or buildings shall be at least two hundred (200) feet from any "R" District.		P
Yards - Concrete mixing, concrete product manufacture.		P
Yards - Contractors' equipment storage yard or plant, including hauling services, or rental of equipment commonly used by contractors.	PR	P
Yards - junk, iron, rag, waste paper; including storage or bailing if completely obscured.		PR
Yards - livestock feed sales and storage provided dust is effectively controlled.	PR	PR
Yards - Sanitary Landfill or transfer station.		PR
Yards – truck terminal yards		PR
Other manufacturing or service establishments equivalent to the permitted uses listed above.	PR	PR
<p><b>Key:</b>                      P = Permitted Use                      PR = Permitted Use With Restrictions provided said use is permitted as determined by P&amp;Z and approved by City Council                      Blank = Use Not Permitted</p>		

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions:

- A. Outdoor storage of materials or equipment is not permitted in the M-1 or M-2 Districts except and specifically approved by Council on a Site Plan. Said storage shall be limited to areas designated on the site plan and shall be maintained and screened in conformance to the site plan.
  - B. Automobile, truck and equipment sales and service shall be permitted provided that all outside storage, display and parking areas shall be used and maintained in conformance with an approved site plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the site plan. All storage shall be on paved surfaces.
  - C. No uses shall be permitted to be established or maintained in any District which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.
4. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:
- A. Customary accessory uses and structures incidental to permitted principal uses.
  - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
5. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.
6. Site Development Regulations. Dimensional requirements for industrial districts are as follows:

<b>SITE DEVELOPMENT REGULATIONS FOR INDUSTRIAL DISTRICTS</b>		
<b>Regulator</b>	<b>M-1</b>	<b>M-2</b>
Building Height Limit	4 Stories or 75 feet	4 Stories or 75 feet
Minimum Lot Area	None	1 acre
Minimum Lot Width	None	150 feet
Minimum Front Yard Depth	30 feet	30 feet
Minimum Side Yard Depth	None <sup>1</sup>	None <sup>2</sup>
Minimum Rear Yard Depth	40 feet <sup>3</sup>	40 feet <sup>3</sup>
<b>Notes:</b>		
<ul style="list-style-type: none"> <li>1. Except 30 feet where adjacent to “R” residential districts.</li> <li>2. Except 200 feet where adjacent to “R” residential districts and except 100’ where adjacent to commercial districts.</li> <li>3. Where rear lot line is adjacent to a railroad right-of-way, no setback is required.</li> </ul>		



7. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.
8. Off-Street Loading. Off-street loading shall be provided as required by Section 165.15 for all industrial districts.
9. Off-Street Parking. Off-street parking shall be provided as required by Section 165.16 for all industrial districts.
10. Site Plans. Site plans shall be required for all uses in all industrial districts. See Chapter 157 for Site Plan requirements.
11. Architectural Design Standards. Architectural Standards shall be required for all uses in all industrial districts consistent with the provisions of Section 157.09.
12. Open Space Requirements. Open space requirements shall be required for all industrial zoning districts in conformance with Section 165.06, subsection 10, of this chapter.
13. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.17 of this chapter.
14. Exceptions and Modifications. See Section 165.14 for exceptions to the industrial zoning district regulations.

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**165.12 PUBLIC UTILITY DISTRICT REGULATIONS.** (U-1) The public utility district zoned districts are intended to provide for publicly-owned and maintained open space and the development or redevelopment of major public utility facilities as needed on a city, state or national level, while promoting the quality of life, health, and general welfare desired by the citizens of the City, all consistent with the Comprehensive Plan. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Public Utility Districts.
  - A. U-1 Public Utility District. The U-1 district is intended to reserve open space including wildlife refuges, reservoirs and storm water management facilities, and the development or redevelopment of major public utility facilities, maintenance facilities or franchise utility facilities
2. Principal Permitted Uses. Principal permitted uses for public utility districts are as follows:

<b>PUBLIC UTILITY ZONING DISTRICTS</b>	
<b>PRINCIPAL PERMITTED USE</b>	<b>U-1</b>
Animal Livery stable or riding academy.	P
Cemetery Services - Funeral Homes, Mortuaries.	P
Cemetery Services - Cemeteries.	P
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P
Civic - Public parks and playgrounds.	P
Education - Primary and Secondary schools, public & private.	P
Public Transportation terminals, including bus stations, airports and landing fields.	PR
Public uses maintained by any agency of Federal, State or local government and or public or franchise utility structures and equipment	P
Religious Institutions.	P
Other public uses equivalent to the permitted uses listed above.	P
<b>Key:</b> P = Permitted Use PR = Permitted Use With Restrictions provided said use is permitted as determined by P&Z and approved by City Council Blank = Use Not Permitted	

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions:
  - A. Public transportation terminals are not permitted in the U-1 District except and specifically approved by Council on a Plat of Subdivision and the necessary public improvements and easements have been provided to support such use.
4. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:

- A. Customary accessory uses and structures incidental to permitted principal uses.
  - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
5. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.
6. Site Development Regulations. Dimensional requirements for public utility districts are as follows:

<b>SITE DEVELOPMENT REGULATIONS FOR PUBLIC UTILITY DISTRICTS</b>	
<b>Regulator</b>	<b>U-1</b>
Building Height Limit	2 ½ stories or 35 feet
Minimum Lot Area	None
Minimum Lot Width	None
Minimum Front Yard Depth	50 feet <sup>1</sup>
Minimum Side Yard Depth	50 feet <sup>1</sup>
Minimum Rear Yard Depth	50 feet <sup>1</sup>
<b>Notes:</b>	
1. Building setback requirements for publicly owned lands may be reduced or waived by City Council, after notice and public hearing.	

7. Off-Street Loading. Off-street loading shall be provided as required by Section 165.15 for all public utility districts.
8. Off-Street Parking. Off-street parking shall be provided as required by Section 165.16 for all public utility districts.
9. Site Plans. Site plans shall be required for all uses in all public utility districts except for improvements located on federally-owned lands. See Chapter 157 for Site Plan requirements.
10. Exceptions and Modifications. See Section 165.14.

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**165.13 PLANNED UNIT DEVELOPMENT DISTRICT REGULATIONS. (PUD)**

1. The planned unit development district is intended and designed to promote and encourage development or redevelopment of tracts of land on a planned, unified basis by allowing greater flexibility for those developments that propose a creative and innovative design whose layout is not achievable under the standards of other zoning districts. A planned unit development shall consist of an arrangement and selection of land uses in groupings that are organized and designed as an integrated unit rather than a collection of independent building and sites. The integrated design shall include a holistic presentation of elements such as building orientation and materials, utilities, parking areas, traffic circulation, sidewalks, trails, landscaping and open spaces that satisfy the individual site needs while achieving greater value for the entire development area. The planned unit development district shall be reserved for only those developments, which meet one or more of the following criteria:

A. Developments that provide for varying land uses to coexist within the same development so that the growing demands of the population may be met by greater variety in type, design, and layout.

B. Developments which encourage a more efficient use of land through the incorporation of public/private spaces or uses which enhance the community at large.

C. Developments that provide both public and private open spaces that accent and enhance both the architectural and natural features of the development and provide for the protection and preservation of existing vegetative and water resources.

D. Developments that present a common and unified theme through the use of architecturally compatible detailing to form a part of a larger composition rather than separate land uses designed in isolation of one another.

2. Principal Permitted Uses. Principal permitted uses for planned unit development zoned property may consist of residential uses, neighborhood commercial uses, neighborhood office uses and any combinations thereof. If it is determined by the Zoning Enforcement Officer that a proposed use is not compatible and consistent with the proposed planned unit development, the property owner shall have the right to appeal the decision to the Planning & Zoning Commission and City Council pursuant to the regulations for amendments as expressed in Section 165.24 of this Chapter.

A. Residential uses shall be defined as single-family residential, attached dwellings, multiple family residential, assisted and independent living facilities and nursing homes.

B. Neighborhood Commercial uses shall be defined as those uses which normally and customarily service the surrounding residential properties. Neighborhood Commercial uses may include, but not be limited to, dry cleaners, delis, coffee shops, markets, and small retail establishments.

C. Neighborhood Office uses shall be defined as those office uses which normally and customarily service the surrounding residential properties. Neighborhood Commercial uses shall include, but not be limited to, small medical clinics, veterinarians, and banks.

3. Accessory Uses. The following accessory uses are permitted in PUD districts:

- A. Customary accessory uses and structures incidental to permitted principal uses.
- B. Private garage or carport in association with a permitted residential use.
- C. Golf courses, parks, playgrounds, aquatic centers and similar amenities, whether public or private, that benefit the neighborhood and/or the community at large.
- D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

4. Site Development Regulations.

Regulator	PUD District
Minimum Area of PUD District	10 acres, unless specifically waived by City Council based on site constraints.
<i>Note: A PUD District may include one or more contiguous tracts of land, whether or not they are under the same ownership, provided all tracts of land are included in one overall Master Plan and all property owners sign a Development Agreement.</i>	

5. Accessory Structures. Accessory structures may be constructed on properties as permitted in Section 165.06. Where the planned unit development is not specifically mentioned, the requirements shall be consistent with the residential district requirements where the principal use of the property is residential and the commercial district requirements where the principal use of the property is commercial.

6. Site Development Regulations. Dimensional requirements, density, setbacks and height requirements shall be clearly specified within the Development Plan and Development Agreement. The minimum setbacks along the perimeter of the project, abutting adjoining properties, shall meet the minimum requirements of the zoning in place before the property is rezoned to PUD or of the adjacent zoning district, whichever is greater.

7. Platting Required. Prior to development of any property within a PUD, the entire tract of land within the PUD shall be platted in accordance with Chapter 170 of the Polk City Code of Ordinances prior to approval of any site plans or issuance of any building permits. Parcels of land with said tract that are set aside for future development shall be platted as outlots.

8. Common Elements. Covenants shall be provided and recorded with any plat or site plan within a PUD. Said covenants shall enumerate all common elements within said plat and establish the guidelines for maintenance of said common elements. Common elements may include, but are not limited to, items such as private streets, parking lots, sidewalks, trails, sanitary sewers, water lines, storm sewers, detention facilities, landscaping, and multi-tenant signs.

9. Off-Street Parking. Adequate parking shall be provided within the planned unit development based upon the proposed uses. Shared parking for varying uses shall be strongly encouraged. Congestion on adjacent public streets shall be minimized.
10. Traffic. Traffic circulation within the planned unit development shall be designed to minimize congestion both on adjacent public streets and within the development. Traffic Impact studies may be required for review by the City Engineer. Turning lanes shall be provided as needed.
11. Pedestrian and Recreational Circulation. Sidewalks shall be designed within a planned unit development to encourage pedestrian circulation throughout residential and commercial areas and to link the varying uses. Recreational trails shall be provided to connect to existing and future trail systems and to promote alternate modes of transportation.
12. Signs. Signage within a planned unit development shall serve as a unifying element while creating measured and consistent identification of the various land uses within the planned unit development. Monument and wall sign area and height limitations as well as lighting and architectural style shall be clearly indicated on the Development Plan and Development Agreement.
13. Architectural Design Standards. Buildings within a planned unit development shall be designed to be architecturally compatible with each other and should be seen as a larger composition as opposed to individual buildings. Buildings shall be designed to promote quality architecture and design elements along all four building elevations. The uses of similar colors, materials, façade projections and recesses, articulated roof lines, enhanced entrances, lighting, windows and architectural features such as awnings are encouraged to make the development architecturally compatible as a whole.
14. Open Space and Landscaping Requirements. Open space requirements within a planned unit development shall consist of both public and private landscape areas, natural areas, plazas and courtyards designed to enhance the architectural and natural features of the development
15. Buffer Screening. The Planned Unit Development shall consider compatibility of uses. Landscaping shall be incorporated into the overall design and transitional uses considered in order to minimize the need for buffer easements and/or fences to screen neighboring uses.
16. Master Plan and Development Agreement. A Master Plan and Development Agreement shall be required for all planned unit development districts. The Master Plan shall cover the entire parcel to be zoned as PUD. The Master Plan shall have a unique name and include a narrative section that identifies the primary objectives of the development as well as providing specific guidelines and design standards related to the development including but not limited to size, location and uses of buildings, bulk regulations, parking configurations and requirements, architectural standards, landscaping, open space design, signage design and location, pedestrian access, and utilities. In addition to the Development Plan, a Development Agreement shall be required of the developer, which shall acknowledge the developers commitment to develop the property in accordance with the Development Plan.
  - A. Master Plans shall be required for all new Planned Unit Developments in conformance with Chapter 171. Master Plans shall be

submitted in conjunction with the petition for rezoning and shall be approved prior to the third reading of the ordinance rezoning the property to PUD.

B. For Planned Unit Developments approved prior to the adoption of this ordinance, a Master Plan in conformance with Chapter 171 shall be required prior to platting or further development of any portion of the PUD-zoned land if an approved Master Plan is not on file with the City Clerk.

17. The following Ordinances and Resolutions have been adopted establishing Planned Unit Developments within the City of Polk City, Iowa:

A. Lakeview Acres Planned Unit Development

(1) Ordinance 86-102 adopted June 9, 1986, voided August 28, 2006

(2) Resolution 2006-73 approved August 28, 2006 (Phase 1)

B. Tournament Club of Iowa Planned Unit Development

(1) Ordinance 2002-300 adopted March 11, 2002

(2) Ordinance 2002-500 adopted October 14, 2002

(3) Ordinance 2002-700 adopted November 11, 2002 (Wolf Creek TH)

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**165.13A. GOVERNMENT FACILITY DISTRICT REGULATIONS.** (GF) The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the (GF) Government Facility District.

1. Statement of Intent. The GF District is intended to support and coordinate the continued development and expansion of major public facilities which are owned by the State of Iowa and the Government of the United States. This district recognizes that the City has no jurisdiction over land owned by these governmental entities.
2. Principal Permitted Uses. Any uses of buildings and structures on this land shall be permitted in the GF District.

*(Ord. 2013-500 – Jan. 14 Supp.)*

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**165.13B. FLOODPLAIN OVERLAY DISTRICT REGULATIONS.** (FP) The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the FP, Floodplain Overlay District.

1. Statement of Intent. The FP District is intended to identify the general location of areas within the floodway, floodplain and/or having special flood hazards.
  - A. Polk City has adopted the regulations and flood maps of the Federal Emergency Management Agency (FEMA) in accordance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The floodplain regulations are stipulated in Chapter 162 - Floodplain Management Ordinance of the Polk City Code of Ordinances.
  - B. Additional regulations are imposed upon properties within the FP Floodplain overlay districts for the protection of life and property from losses and hazards caused by the occupancy and use of the floodplain by buildings, structures or activities that may increase the effects of flooding.
  - C. No structure or land shall be used and no structure or wastewater treatment facility (including septic systems) shall be located, extended, converted or structurally altered in any designated FP Flood Plain Overlay District without full compliance with the terms of Chapter 162 - Floodplain Management Ordinance, including but not limited to the requirement for a Flood Plain Development Permit.
  - D. If there are any discrepancies between the flood plain as may be depicted on the Official Zoning Map and the flood hazard areas as depicted on the Flood Insurance Rate Map, the Flood Insurance Rate Map shall govern.
  - E. All parcels and uses of property shall be in accordance with the district regulations of the underlying zoning district, except as limited by Chapter 162- Floodplain Management Ordinance.

*(Ord. 2014-1800 – Jan. 15 Supp.)*

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**165.14 EXCEPTIONS AND MODIFICATIONS.** The regulations specified in this chapter shall be subject to the following exceptions and interpretations:

1. Use of Existing Lots of Record. In any district where dwellings are permitted, a single-family detached dwelling may be located on any lot or plot of official record as of March 25, 1996, irrespective of its area or width; provided, however, in all districts other than the “R-1 Single-Family Detached Residential District”, if two or more such lots or plots, or parts thereof with continuous frontage are combined into single ownership, such lots or plots or parts thereof shall be considered buildable only if they have a total combined minimum width of fifty (50) feet. In the “R-1 Single-Family Detached Residential District”, if two or more such lots or plots or parts thereof with continuous frontage are combined into single ownership, such lots or plots or parts thereof shall be considered buildable only if they have a total combined minimum width of eighty (80) feet.

A. The sum of the side yard widths of any such lot or plot shall not be less than thirty percent (30%) of the width of the lot, but in no case less than ten percent (10%) of the width of the lot for any one side yard.

B. The depth of the rear yard of any such lot need not exceed twenty percent (20%) of the depth of the lots, but in no case less than ten (10) feet.

2. Structures Permitted Above the Height Limit. The building height limitations of this chapter shall be modified as follows:

A. Chimneys, cooling towers, cell towers, small wind energy conversion systems, elevator bulk-heads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with a special use permit subject to the provisions contained herein and elsewhere within this City Code and further provided that a fall zone setback equal to 150% of the total system height has been met unless said fall zone setback requirement has been waived by City Council.

B. Public, semi-public or public service buildings, hospitals, sanatoriums, schools, business colleges and related structures, churches and temples, when permitted in a district, may be erected to a height not exceeding one hundred twenty-five (125) feet, if the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.

C. Single-family dwellings and two-family dwellings in the residence districts may be increased in height but not more than ten (10) feet when two (2) side yards of not less than fifteen (15) feet each are provided, but they shall not exceed three (3) stories in height. Single-family semi-detached dwellings in residence districts may be increased in height by not more than ten (10) feet when one (1) side yard of not less than fifteen (15) feet is provided, but they shall not exceed three (3) stories in height.

D. Notwithstanding the provisions of Section 165.10 and Section 165.11, principal buildings in any “C-2” or “M” zoning district may be erected to a height not exceeding one hundred twenty-five (125) feet and the otherwise applicable maximum story limitation waived if the portion of the building in

excess of one story in height is set back from the applicable front, side and rear yard at least three-fourths (3/4) of one (1) foot for each one (1) foot of additional building height above the height limit otherwise provided for in the zoning district in which the building is located.

3. Exceptions to Yard Requirements.

A. Yards Adjacent to Alleys. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half (1/2) of the alley width may be included as a portion of the rear or side yard as the case may be.

B. Minor Obstructions. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard and except for ordinary projections as specified in Section 165.06. However, in a "C-2" Commercial District, an "M-1" Light Industrial District or and "M-2" Heavy Industrial District, one (1) sidewalk arcade, canopy or similar architectural feature may be established and maintained in the front yard of an interior lot or in the front yard or street side yard of a corner lot; provided, the roof area occupied by such feature shall not exceed six hundred (600) square feet. In any "C-2", "M-1" or "M-2" District, one such feature, not to exceed six hundred (600) square feet of roof area, may be established and may be maintained in the front yard of any interior lot, and two such features, not to exceed six hundred (600) square feet of roof area each, may be established and may be maintained in the front yard or street side yard of a corner lot.

C. Atypical Setbacks. In residential areas where some lots are developed with a front yard that is less than the minimum required for the district by this chapter, or where some lots have been developed with a front yard greater than required by this chapter, the following rule shall apply. The front yard depth for a principal building (nursing and convalescent homes excluded) located on a lot within two hundred fifty (250) feet of any portion of two (2) or more lots in the same block occupied by dwellings that front on the same street as the proposed principal dwelling shall be the average front yard depth of such existing dwellings. The distance shall be measured along the street line from the nearest corner of the lot under consideration.

(1) Buildings located entirely on the rear half of a lot shall be counted.

(2) Buildings shall not be required to have a front yard greater than fifty (50) feet or less than that required in the zoning district in which it is located.

(3) If no buildings exists on one (1) side of a lot within two hundred fifty (250) feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

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**165.15 OFF-STREET LOADING SPACES.** In all districts except the “C-TS” Town Square Business District, in connection with every building or part thereof hereafter erected having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods, display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space for each twenty thousand (20,000) square feet, or major fraction thereof, of gross floor area so used in excess of ten thousand (10,000) square feet.

1. Each loading space shall be not less than ten (10) feet in width and at least twenty-five (25) feet in length.

2. Such space may occupy all or any part of any required yard or court space, except where adjoining an “R” District, it shall be set back five (5) feet and an opaque screen of six (6) feet in height shall be installed and shall be maintained along all “R” District boundaries. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. 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. However, if the adjoining “R” District property is vacant, the front yard setback for the “R” District shall apply. A six (6) foot high opaque screen shall not be required along adjoining streets or adjoining alleys. An opaque screen of three (3) feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any “R” District. The opaque screen shall not extend closer than twenty-five (25) feet to the front property line. An opaque screen of three (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. Where there is a difference in elevation on opposite sides of the screen, the height shall consist of one or any combination of the following:

A. Wood or masonry walls or fences when constructed of materials which provide openings of less than fifty percent (50%) 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 eighteen (18) months after initial planting. The Zoning Enforcement Officer shall require that either A or B above shall be installed if, after eighteen (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 which provide openings of more than fifty percent (50%) in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.

D. When the finished elevation of the property is lower at the boundary line or within five (5) feet inside the boundary line than an abutting property

elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

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**165.16 OFF-STREET PARKING AREA.**

1. In all districts except the “C-TS” Town Square Business District in connection with every industrial commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons, or employees of the principal use served.

A. The presumptions established by this section are that: (i) a development must comply with the parking standards set forth in the parking table, and (ii) any development that does meet these standards is in compliance.

B. In determining the number of parking spaces required by the table of parking requirements, if a fractional space results, any fraction less than one-half may be disregarded while fractions in excess of one-half shall be counted as one parking space.

C. The Council recognizes that the table of parking requirements set forth in this section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Public Works Director is authorized to determine the parking requirements using this table as a guide. In accordance with the Comprehensive Plan, wherever possible parking will be established in the rear or side yard with the building orientation to the front sidewalk.

D. Table of Parking Requirements.

USE	PARKING REQUIREMENT
<b>RESIDENTIAL:</b>	
Single-family	2 spaces for each dwelling unit plus one space per room rented out, exclusive of garage
Two-family	2 spaces for each dwelling unit, exclusive of garage
Multi-family, One bedroom (townhomes & apartments)	1 space per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Multi-family, Two bedrooms or more (townhomes & apartments)	2 spaces per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Independent Living Facilities	1.25 spaces per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Assisted Living Facilities.	1 space per two dwelling units plus 1 space per each on-duty staff member
<b>MISCELLANEOUS ROOMS-FOR-RENT SITUATIONS:</b>	
Homes emphasizing special services, treatment or supervision	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every 3 beds is required
Boarding houses	1 space for each bedroom
Hotels, motels and similar businesses or institutions providing over-night accommodations	1.25 spaces for each room to be rented plus additional space (in accordance with other sections of this table) for restaurant or other facilities
Home occupations	Demand established by particular home occupation authorized
<i>(Ord. 2013-100 – April 13 Supp.)</i>	

USE	PARKING REQUIREMENT
<b>SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT:</b> (No storage or display of goods outside fully enclosed building.)	
Storage – miscellaneous	1 space per 200 square feet of gross floor area
Convenience store	1 space per 150 square feet of gross floor area
Low-volume traffic*	1 space per 400 square feet of gross floor area
Wholesale sales	1 space per 400 square feet of gross floor area
Storage and display of goods outside fully enclosed building:	
High-volume traffic generation*	1 space per 200 square feet of gross floor area
Low-volume traffic generation*	1 space per 400 square feet of gross floor area
Wholesale sales	1 space per 400 square feet of gross floor area
*As determined by the City Engineer and/or IDOT traffic studies or other acceptable evaluations and data.	
<b>OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE:</b> (All operations conducted within fully enclosed building.)	
Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, physicians, other professions, insurance and stock brokers, travel agents, government office buildings, etc.	1 space per 200 square feet of gross floor area
Operations designed for little or not customer or client traffic other than employees of the entity operating the principal use	1 space per 400 square feet of gross floor area
Office or clinics of physicians or dentists with no more than 10,000 square feet of gross floor area	1 space per 150 square feet of gross floor area
Operations conducted within or outside fully enclosed building:	
Operations designed to attract and serve customers or clients on the premises	1 space per 200 square feet of gross floor area
Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use	1 space per 400 square feet of gross floor area
Banks with drive-up windows	1 space per 200 square feet of area within main building plus reservoir land capacity equal to 5 spaces per window (10 spaces if window serves two stations)
<b>MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLY OF GOODS, MERCHANDISE AND EQUIPMENT</b> (All operations conducted entirely within a fully enclosed building.)	
Majority of dollar volume of business done with walk-in trade	1 space per 400 square feet of gross floor area
Majority of dollar volume of business not done with walk-in trade	1 space for every two employees on the maximum shift, except that if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area
Operations conducted within or outside fully enclosed building	1 space for every two employees on the maximum shift except that if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area

USE	PARKING REQUIREMENT
<b>EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES:</b>	
Elementary and secondary (including associated grounds and other facilities)	1.75 spaces per classroom in elementary schools, 10 spaces per classroom in high schools
Trade or vocation schools	1 space per 100 square feet of gross floor area
College, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	1 space per 150 square feet of gross floor area
Churches, synagogues, temples	1 space for every 80 square feet of worship area plus one space for every two employees with sufficient space for safe and convenient loading and unloading
Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)	1 space per 300 square feet of gross floor area
Social, fraternal clubs and lodges, union halls and similar uses	1 space per 300 square feet of gross floor area
<b>RECREATION, AMUSEMENT, ENTERTAINMENT: (Activity conducted entirely within building or substantial structure.)</b>	
Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses	1 space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion; for example, tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation
Movie theaters	1 space for every four seats
Coliseums, stadiums, and all other facilities listed in the 6.100 classification designed to seat or accommodate simultaneously more than 1,000 people	1 space for every four seats
<b>RECREATION, AMUSEMENT, ENTERTAINMENT: (Activity conducted primarily outside enclosed buildings or structures.)</b>	
Privately owned recreational facilities such as golf and country clubs, swimming or tennis clubs, etc., not construction of some residential development	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that outdoor facilities are designed to accommodate when used to the maximum capacity
Publicly owned recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that outdoor facilities are designed to accommodate when used to the maximum capacity
Miniature golf course, skateboard park, water slide and similar	1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area
Drive Range	1 space per tee plus 1 space per 200 square feet of building gross floor area
Par Three Course	2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area
Horseback riding stables (not constructed pursuant to permit authorizing residential development)	1 space per horse that could be kept at the stable when occupied to maximum capacity
Automobile and motorcycle racing tracks	1 space for every three seats
Drive-in movie theaters	1 space per speaker outlet

USE	PARKING REQUIREMENT
<b>INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES:</b>	
Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
Nursing care institutions, intermediate care institutions, institutions for infirm persons or persons with disabilities, child care institutions	3 spaces for every five beds. Multi-family units developed or sponsored by a public or nonprofit agency for limited income families or the elderly require only 1 space per unit
Institutions (other than halfway houses where mentally ill persons are confined)	1 space for every two employees on maximum shift
Penal and correctional facilities	1 space for every two employees on maximum shift
<b>RESTAURANTS, BARS, NIGHTCLUBS:</b>	
No substantial carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area
No substantial carry-out or delivery service; no drive-in service, service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats
Carry-out and delivery service, no drive-in service, consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats
Carry-out and delivery service, drive-in service, service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats plus reservoir lane capacity equal to 5 spaces per drive-in window
<i>(Ord. 2013-100 – April 13 Supp.)</i>	
<b>MOTOR VEHICLE RELATED SALES AND SERVICE OPERATIONS:</b>	
Motor vehicle sales or rental; mobile homes sales	1 space per 200 square feet of gross floor area
Sales with installation of motor vehicle parts or accessories (e.g., tires, mufflers, etc.) fully enclosed structure allowed	1 space per 200 square feet of gross floor area
Motor vehicle repair and maintenance, not including substantial body work	1 space per 200 square feet of gross floor area
Motor vehicle painting and body work	1 space per 200 square feet of gross floor area
Gas sales	1 space per 150 square feet of gross floor area of building, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces
Car Wash conveyor type	1 space for every three employees on the maximum shift plus reservoir capacity equal to 5 times the capacity of the washing operation
Car Wash self-service type	2 spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall
<b>STORAGE AND PARKING:</b>	
<i>(Storage of goods not related to sale or use of those goods on the same lot where they are stored)</i>	
All storage within completely enclosed structures	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)
Storage inside or outside completely enclosed structures	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)

USE	PARKING REQUIREMENT
<b>OTHER:</b>	
Scrap materials, salvage yards, junk yard, automobile graveyards	1 space per 200 square feet of gross floor area
Service and enterprises related to animals	1 space per 200 square feet of gross floor area
Emergency services	1 space per 200 square feet of gross floor area
Agricultural, silvicultural, mining, quarry operations	1 space per 2 employees on maximum shift
Miscellaneous public and semi-public facilities:	
Airport	1 space per 200 square feet of gross floor area
Sanitary landfill	1 space for every two employees on maximum shift
Dry cleaner, Laundromat	1 space per 200 square feet of gross floor area
Open air markets and horticultural sales	1 space per 1,000 square feet of lot area used for storage, display or sales
Funeral Home	1 space per 100 square feet of gross floor area
Cemetery	No requirement
Nursery schools; day care centers	1 space per employee plus 1 space per 200 square feet of gross floor area
Bus station, train station	1 space per 200 square feet of gross floor area
Commercial greenhouse operations area	1 space per 200 square feet of gross floor area

2. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply.

3. Where a parking lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight (8) feet in width in case of a dwelling and not less than sixteen (16) feet in width in all other cases leading to the loading or unloading spaces and to secure the most appropriate development of the property in question, provided however, such easement of access or access drive shall not be located in any residence district, except where serving a permitted use in a residence district.

4. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

A. No part of any parking space shall be closer than five (5) feet to any established street right-of-way or alley line. In the case the parking area adjoins an “R” District, it shall be set back at least five (5) feet from the “R” District boundary and an opaque screen of six (6) feet in height shall be installed and shall be maintained along all “R” District boundaries. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. The screen shall be in line with the front of any adjoining “R” District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if the adjoining “R” District property is vacant, the front yard setback for the “R” District shall apply. A six (6) foot high opaque screen shall not be required along streets or along alleys. An opaque screen of three (3) feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any “R” District. The opaque screen shall not extend closer than twenty-five (25) feet to the front property line. An opaque screen of three (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. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one, or any combination of, the following:

- (1) Wood or masonry walls or fences when constructed of materials which provide openings of less than fifty percent (50%) in area of the vertical surface of the wall or fence.
- (2) Berms constructed of earthen materials and landscaped.
- (3) Plant materials when used as a screen shall consist of compact evergreen plants that meet the approval of Section 165.17, Landscape, Planting and Screening and Urban Design Standards, Chapter 12, Section 5. They shall be of a kind or used in such a manner so as to provide their screening function within eighteen (18) months after initial planting. The Zoning Enforcement Officer shall require that either (1) or (2) above 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 which provide openings of more than fifty percent (50%) in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.
- (4) When the finished elevation of the property is lower at the boundary line or within five (5) feet inside the boundary line than an abutting property elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

B. In all zoning districts, all off-street parking areas and driveways shall be surfaced with an asphaltic or portland cement binder pavement or such other surfaces as shall be approved by the City Engineer and the Building Inspector so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of self-propelled vehicles. Such surfacing shall be required to be installed at the time of site improvement construction in conjunction with Site Plan approval when such approval is required and issuance of building permits and shall be considered a required improvement to be installed prior to issuance of occupancy permits; provided however, the Council may, in its discretion, by resolution, authorize an extension of time for the installation of the required surfacing and allow issuance of the occupancy permit prior to installation of the required surfacing. The Council may consider an extension of time only if a petition signed by the owner or duly authorized representative requesting a time extension including a statement of reasons therefor, is presented to the Council. The length of time granted for the extension shall be determined and at the discretion of the Council, but in no event longer than three (3) years. Should a time extension be granted by resolution of the Council, the owner shall provide to the City a performance bond in the form as prescribed by the

Subdivision Regulations, Chapter 170 of this Code of Ordinances, and in the amount recommended by the City Engineer and approved by the Council and for the duration of the time stipulated in such grant. The Council may, in its discretion, by resolution rescind the granted extension of time by reason of such facility becoming a nuisance to surrounding property owners. In such instance, the required surfacing shall be installed by the owner within six months from the date of such resolution or the performance bond concerning surfacing shall be forfeited and the surfacing installed by order of the City.

C. Vehicles, recreational vehicles, boats, all-terrain vehicles (ATVs) or snowmobiles shall not be parked or stored within the front yard or street side yard of a residential lot in any zoning district unless situated on a paved driveway or parking lot. In the case of an existing residential driveway that was unpaved at the time of the passage of this Ordinance; vehicles, recreational vehicles, boats, ATVs and snowmobiles shall be permitted to be parked or stored on such unpaved driveway until such time as site improvements are made which require the driveway to be paved. Recreational vehicles, boats, ATVs, and snowmobiles may be parked or stored within the interior side yard or rear yard of a residential lot or within an enclosed garage. Recreational vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings.

D. Any lighting used to illuminate any off-street parking area including any commercial parking lots shall be so arranged as to reflect the light away from adjoining premises in any "R" District. Such lighting shall be downcast lighting with a maximum of 1 foot-candle at the property line.

5. Off-street parking areas shall be provided on the same lot with the principal use, except as provided in subsection 6 below.

6. Subject to the requirements herein, off-street parking areas may be established in any "R" District that immediately adjoins a "C" or "M" District, or is directly across an alley from a "C" or "M" District, provided that:

A. Such parking shall be accessory to and for use of one or more permitted uses in the adjoining "C" or "M" District and shall not include trucks.

B. Such parking areas shall not extend more than one hundred (100) feet from the boundary of the less restricted district. In no case shall said areas extend closer than ten (10) feet to the street right-of-way line. The yard between said parking areas and the adjoining streets shall be screen planted and landscaped as provided in C below.

C. A ten (10) foot yard shall be maintained between said parking area and adjoining lots in an "R" District. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. An opaque screen at least six (6) feet in height shall be maintained along 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. However, if

the adjoining “R” District property is vacant, the front yard setback for the “R” District shall apply. A six (6) foot high opaque screen shall not be required along adjoining streets or adjoining alleys. An opaque screen of three (3) feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any “R” District. The opaque screen shall not extend closer than twenty-five (25) feet to the front property line. An opaque screen of three (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 sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one or any combination of the following:

- (1) Wood or masonry walls or fences when constructed of materials which provide openings of less than fifty percent (50%) in area of the vertical surface of the wall or fence.
  - (2) Berms constructed of earthen materials and landscaped.
  - (3) Plant materials when used as a screen shall consist of compact evergreen plants. They shall be of a variety or used in such a manner so as to provide adequate screening function. A wall or fence may be combined with the plant materials. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than fifty percent (50%) in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.
  - (4) When the finished elevation of the property is lower at the boundary line or within five (5) feet inside the boundary line than an abutting property elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.
- D. All entrances and exits for said parking areas shall be from said adjoining alley for “C” or “M” District.
- E. No such parking area shall be located in any required front yard in a residence district or project in front of the immediately adjoining permitted principal structures.
7. Parking spaces required by subsection 1 and 2 hereof shall be provided in accordance with the Urban Design Standards, Chapter 12, Section 3.
  8. Parking spaces required by subsection 1 and 2 hereof shall not be located within any shared or common driveway or ingress/egress easement.

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**165.17 LANDSCAPE, PLANTING AND SCREENING.**

1. Open Space Planting. Whenever property is required to include open space pursuant to the provisions of Section 165.06, such open space shall be unencumbered by any structure or off-street parking area. Such open space, except for the portion used as pedestrian walks or courts, shall be landscaped and maintained with grass or other acceptable ground cover and shall include trees and shrubs in the proportions hereinafter set forth. Trees and shrubbery shall be provided at a minimum ratio of two (2) trees and six (6) shrubs per three thousand (3,000) square feet of required open space; provided, however, there shall be a minimum requirement of two (2) trees and six (6) shrubs. Required plantings shall be installed prior to issuance of an occupancy permit. The required number of trees and shrubs shall be determined as follows:

- 3,000 square feet or less of open space = two (2) trees, six (6) shrubs
- More than 3,000 square feet of open space:  
 Trees: (square feet of open space divided by 3,000) x 2 = No. of trees required  
 Shrubs: (square feet of open space divided by 3,000) x 6 = No. of shrubs required

The plantings required hereunder are in addition to and not in substitution of any planting requirements otherwise set forth in this Code of Ordinances. Existing trees and shrubs on site and retained as part of the development may be used to meet the requirements of this section.

2. Parking Area Landscaping. Parking areas required in R-3, R-4, C-1, C-2, C-3, C-4, M-1 and M-2 zoning districts shall provide areas of natural shading, accomplished through the planting of trees, in an amount equal to twenty percent (20%) of the total square feet of drives and parking (Vehicle Pavement Area). Trees used for this purpose shall be presumed to shade a circular area having seven hundred (700) square feet. New trees planted to meet the requirements of this section shall be located so that each is surrounded by at least one hundred ninety (190) square feet of unpaved area. New and existing trees shall be protected from damage by vehicles and shall be promptly replaced if destroyed. Plantings required hereunder shall be installed prior to the issuance of an occupancy permit for the site. The number of trees required hereunder shall be determined as follows:

- Vehicle Pavement Area x 20% = Plant Square Footage
- Plant Square Footage divided by 700 = No. of trees required.

The plantings required under this section are in addition to and not in substitution of any open space or parking lot plantings or screening otherwise required under this Code of Ordinances. Existing trees on a site which are retained as a part of development and which provide shade to parking areas may be used to meet the requirements of this section.

3. Approved Trees. Any trees planted to meet the requirements of this chapter shall be trees of a type included on the approved tree list of the City as determined by the Tree Board.

4. Screens. The intent of the screening regulations hereinafter set forth is to lessen the transmission from one property to another of noise, dust and glare; to lessen visual pollution by creating the impression of separation of spaces or entirely

shielding one land use from another; and/or establishing a sense of privacy from visual or physical intrusion. The Council specifically finds that the provisions of this chapter are necessary to safeguard the public health, safety and welfare.

A. General Screening Standard. Every development shall provide sufficient screening so that neighboring properties are shielded from any adverse external effects of that development; and the development is shielded from the negative impacts of adjacent uses including streets and railroads.

B. Compliance with General Standard. The following “Table of Screening Requirements” (the “Table”), in conjunction with the explanations set forth in subsection 4D concerning types of screens, establishes screening requirements that presumptively satisfy the general standard established in subsection 4A.

C. “Burdened Zoning District” means the zoning classification of the property on which screening must be installed. “Benefited Zoning Classification/Use” means the zoning classification of the property which is benefited or protected by the required screening. The letter designations “A”, “B” and “C” refer to types of screening required and which are described and defined in subsection 4D. The designation “–” means there are no presumptively required screening requirements for abutting properties to which such designation applies under the Table. Where screening is required under the Table, the owner of the property in the burdened district is responsible for the installation of the required screening prior to issuance of an occupancy permit. The burdened zoning district shall be interpreted to mean the zoning district permitting more intensive uses unless otherwise determined by City Council upon recommendation of the Planning and Zoning Commission.

<b>TABLE OF SCREENING REQUIREMENTS</b>									
<b>BENEFITED ZONING DISTRICT</b>									
Burdened Zoning District	R-1 R-1A	R-2 R-2A	R-3	R-4	C-1 C-4	C-2 C-3	M-1 M-2	PUD	U-1
R-1 & R-1A	–	–	A	A	B	B	C	*	–
R-2 & R-2A	–	–	A	A	B	B	C	*	–
R-3	A	A	–	–	B	B	C	*	–
R-4	A	A	–	–	A	B	C	*	–
C-1, C-4	B	B	A	A	–	A	C	*	–
C-2, C-3	B	B	B	B	A	–	C	*	–
M-1, M-2	C	C	C	C	C	C	–	*	–
PUD	*	*	*	*	*	*	*	*	–
U-1	–	–	–	–	–	–	–	–	–

Notes:

1. Screening and Buffer Easements in PUD Districts to be approved by City Council with Master Plan.
2. Additional screening and Buffer Easements for M-2 uses may be required by City Council with Site Plan
3. Where the burdened property lies adjacent to the corporate limits at the time of development, buffer requirements shall be based upon the Future Land Use of the benefited parcel as designated by the Polk City Comprehensive Plan.
4. Where the burdened property lies adjacent to an A-1 zoning district at the time of development, buffer requirements shall be based upon the Future Land Use of the benefited parcel as designated by the Polk City Comprehensive Plan.

D. Description of Screens. The following three basic types of screens are hereby established and are designated “A”, “B” and “C” (corresponding to the designations included in the Table):

(1) Broken screen, type “A”, means a screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. A type “A” screen shall be located within a buffer easement of sufficient width to accommodate the required broken screen as shown on an approved site plan, but in no case shall it be less than 20 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

(2) Semi-opaque screen, Type “B”, means a screen that is opaque from the ground to a height of three (3) feet, with intermittent visual obstruction from above the opaque portion to a height of at least twenty (20) feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or nature vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The zone of intermittent visual obstruction may contain deciduous plants. A type “B” screen shall be located within a buffer easement of sufficient width to accommodate the required semi-opaque screen as shown on an approved site plan, but in no case shall it be less than 30 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

(3) Opaque screen, Type “C”, means a screen that is opaque from the ground to a height of a least six (6) feet, with intermittent visual obstructions from the opaque portion to a height of at least twenty (20) feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing

vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The portion of intermittent visual obstructions may contain deciduous plants. A type “C” screen shall be located within a buffer easement of sufficient width to accommodate the required opaque screen as shown on an approved site plan, but in no case shall it be less than 50 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

E. Where commercial and/or industrial uses abut residential uses, the developer of the commercial and/or industrial property shall construct all required screens adjacent to said residential properties as part of the initial phase of development of their property.

5. Buffer Easements Adjacent to U.S. Army Corps of Engineers Land. Parcels of land being developed that abut land owned by the United States of America shall provide a thirty-five foot (35') wide Buffer Easement across the developer's property adjacent to said public lands prior to approval of a Final Plat or Site Plan for the developer's property. The Buffer Easement shall prohibit construction of principal or accessory structures within said easement, except approved fences or walls. The Buffer Easement shall also restrict construction of streets within said easement except where it is deemed necessary to cross said easement to maintain continuity of the street system. The buffer easement shall not restrict construction of trails.

6. Storage Areas. The outdoor storage of materials, equipment or supplies, when permitted in any commercial or industrial district, shall be located or screened, fenced or landscaped so as to effectively prevent visibility of such storage from all abutting residential zoning districts or abutting existing residential uses. Such screening shall be sufficient if it prevents visibility of such storage area by persons traveling on public right of ways or standing at level on the side or rear lot lines of such property. Such screening shall comply with the standard for an opaque screen Type C.

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**165.18 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.**

1. Purpose. The purpose of this section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this section are to:
  - A. Protect residential areas and land uses from potential adverse impacts of towers and antenna;
  - B. Encourage the location of towers in non-residential areas;
  - C. Minimize the total number of towers throughout the community;
  - D. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
  - E. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
  - F. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
  - G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
  - H. Consider the public health and safety of communication towers; and
  - I. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City shall give due consideration to the City's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.
2. Definitions. As used in this section, the following terms shall have the meanings set forth below:
  - A. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
  - B. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
  - C. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
  - D. "FAA" means the Federal Aviation Administration.
  - E. "FCC" means the Federal Communications Commission.

F. “Height” means, when referring to a tower or other structure, the distance measure from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

G. “Preexisting towers and preexisting antennas” means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

H. “Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

3. Applicability.

A. New Towers and Antennas. All new towers or antennas in the City shall be subject to these regulations, except as provided in subsections B through D, inclusive.

B. Amateur Radio Station Operators/Receive Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70’) feet in height and is owned and operated by a federal-licensed amateur radio station operator or is used exclusively for receive only antennas.

C. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of subsections 4(F) and 4(G).

D. AM Array. For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

4. General Requirements.

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Enforcement Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are

either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Enforcement Officer may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however that the Zoning Enforcement Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics. Towers and antennas shall meet the following requirements:

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (4) The alternative tower structure will be given preference for approval over a typical tower.

E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. State of Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty

(30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and county jurisdictional boundaries.

I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the Zoning Enforcement Officer.

K. Public Notice. For purposes of this section, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2 of subsection 7, in addition to any notice otherwise required by this chapter.

L. Signs. No signs shall be allowed on an antenna or tower.

M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection 8.

N. Multiple Antenna/Tower Plan. The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

5. Permitted Uses.

A. General. The uses listed in this subsection are deemed to be permitted uses and shall not require administrative approval or a special use permit.

B. Permitted Uses. The following uses are specifically permitted:

(1) Antennas or towers located on property owned, leased, or otherwise controlled by the City provided a license or lease authorizing such antenna or tower has been approved by the City.

6. Administratively Approved Uses.

A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(1) The Zoning Enforcement Officer and City Engineer must approve the uses listed in this subsection.

(2) Each applicant for administrative approval shall apply to the Zoning Enforcement Officer providing the information set forth in subsections 7 (B) (1) and 7 (B) (3) of this section and a nonrefundable



fee as established by resolution of the Council to reimburse the City for the costs of reviewing the application.

(3) The Zoning Enforcement Officer and City Engineer shall review the application for administrative and technical approval and determine if the proposed use complies with subsections 4, 7 (B) (4) and 7 (B) (5) of this section. Applicant will pay all fees associated with the review process.

(4) The Zoning Enforcement Officer shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.

(5) In connection with any such administrative approval, the Zoning Enforcement Officer may, in order to encourage shared use, administratively waive any zoning district setback requirements in subsection 7 (B) (4) or separation distances between towers in subsection 7 (B) (5) by up to fifty percent (50%).

(6) In connection with any such administrative approval, the Zoning Enforcement Officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to subsection 7 prior to filing any appeal that may be available under this chapter.

B. List of Administratively Approved Uses. The following uses may be approved by the Zoning Enforcement Officer after conducting an administrative review:

(1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district.

(2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

a. Antennas On Existing Structures. Any antenna which is not attached to a tower may be approved by the Zoning Enforcement Officer as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided;

(i) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

(ii) The antenna complies with all applicable FCC and FAA regulations; and

(iii) The antenna complies with all applicable building codes.

b. Antennas On Existing Towers. An antenna which is attached to an existing tower may be approved by the Zoning Enforcement Officer and, to minimize adverse visual impacts

associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Enforcement Officer allows reconstruction as a monopole.

(ii) Height.

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in subsection (iii) (a) may only occur one time per communication tower.

(c) The additional height referred to in subsection (iii) (a) shall not require an additional distance separation as set forth in subsection 7. The tower's premodification height shall be used to calculate such distance separations.

(iii) Onsite Location.

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to subsection 7 (B) (5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of subsection 7 (B) (5).

(d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in subsection 7 (B) (5) shall only be permitted when approved by the Zoning Enforcement Officer.

(3) New Towers In Non-Residential Zoning Districts. Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Enforcement Officer concludes the tower is in conformity with the goals set forth in subsection 1 and the requirements of subsection 4; the tower meets the setback requirements in subsection 7 (B) (4) and separation distances in subsection 7 (B) (5); and the tower meets the following height and usage criteria:

- a. for a single user, up to ninety (90) feet in height;
- b. for two users, up to one hundred twenty (120) feet in height; and
- c. for three or more users, up to one hundred fifty (150) feet in height.
- d. Notwithstanding anything contained elsewhere in this Section, a tower of up to two hundred seventy (270) feet in height may be approved by the Council upon a showing that the tower will be used for at least three users and that the site best addresses the needs and concerns of the City.

(4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Enforcement Officer is in conformity with the goals set forth in subsection 1.

(5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

7. Special Use Permits.

A. The following provisions shall govern the issuance of special use permits for towers or antennas by the Board of Adjustment:

(1) If the tower or antenna is not a permitted use under subsection 5 of this section or is not approved administratively pursuant to subsection 6 of this section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

(2) Applications for special use permits under this subsection shall be subject to the procedures and requirements of Section 165.19 of this chapter, except as modified in this subsection.

(3) In granting a special use permit, the Board of Adjustment may impose conditions to the extent the Board of Adjustment concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

(4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by

a licensed professional engineer and also reviewed by the City Engineer.

(5) An applicant for a special use permit shall submit the information described in this subsection and a non-refundable fee as established by resolution of the Council to reimburse the City for the costs of reviewing the application.

B. Towers.

(1) Information Required. In addition to any information required for applications for special use permits pursuant to Section 165.19 of this chapter, applicants for a special use permit for a tower shall submit the following information:

a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subsection 7 (B) (5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Enforcement Officer to be necessary to assess compliance with this section.

b. Legal description of the parent tract and leased parcel (if applicable).

c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 4 (C) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing towers(s), if known.

e. A landscape plan showing specific landscape materials.

f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

g. A description of compliance with subsections 4 (C), (D), (E), (F), (G), (J), (L), and (M), 7 (B) (4), 7 (B) (5) and all applicable federal, state or local laws.

h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

i. Identification of the entities providing the backhaul network for the tower(s) described in the application and

other cellular sites owned or operated by the applicant in the City.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(2) Factors Considered In Granting Special Use Permits For Towers. In addition to any standards for consideration of special use permit applications pursuant to Section 165.19 of this chapter, the Board of Adjustment shall consider the following factors in determining whether to issue a special use permit, although the Board of Adjustment may waive or reduce the burden on the applicant of one or more of these criteria if the Board of Adjustment concludes that the goals of this section are better served thereby;

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection 7 (B) (3) of this section.

(3) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Board of Adjustment related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Board of Adjustment may reduce the standard setback requirements if the goals of this subsection would be better served thereby:

- a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Board of Adjustment may reduce the standard separation requirements if the goals of this section would be better served thereby.

- a. Separation From Off-Site Uses/Designated Areas.
  - (i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
  - (ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

**Table 1:  
Off-Site Use/Designated Area Separation Distance**

Single-family or duplex residential units <sup>1</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower <sup>2</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

<sup>1</sup> Includes modular homes and mobile homes used for living purposes.

<sup>2</sup> Separation measured from base of tower to closet building setback line.

<sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

- b. Separation Distances Between Towers.
  - (i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

**Table 2  
Existing Towers – Types**

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75 Ft in Height or Greater</b>	<b>Monopole Less Than 75 Ft in Height</b>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

(6) Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Board of Adjustment may waive such requirements, as it deems appropriate.

(7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Board of Adjustment may waive such requirements if the goals of this section would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extents possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

8. Buildings or Other Equipment Storage.

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

(1) The cabinet or structure shall not contain more than three hundred twenty (320) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over three hundred twenty (320) square feet of gross floor area or eight (8) feet in height, shall be located on the ground and shall not be located on the roof of the structure.

(2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10) percent of the roof area.

(3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(1) In residential districts, the equipment cabinet or structure may be located:



- a. In a front or side yard provided the cabinet or structure is no greater than three hundred twenty (320) feet in height or eight (8) square feet of gross floor area and the cabinet/structure is located in compliance with the set back requirements from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
  - b. In a rear yard, provided the cabinet or structure is no greater than eight (8) feet in height or three hundred twenty (320) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than eight (8) feet in height or three hundred twenty (320) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than three hundred twenty (320) square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- D. Modification of Building Size Requirements. The requirements of this subsection may be modified by the Zoning Enforcement Officer in the case of administratively approved uses or by the Board of Adjustment in the case of uses permitted by special use to encourage collocation.
- 9. Removal of Abandoned Antennas and Towers.
  - A. Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within sixty (60) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said sixty (60) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
  - B. A written agreement signed by the communication facility owner and property owner to remove the tower, foundation and any other accessory equipment within sixty (60) days after abandonment. As used herein, the term "abandonment" shall mean a communication tower that is not used for its intended and approved purpose for more than one hundred eight (180) days.

10. Nonconforming Uses.
  - A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
  - B. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
  - C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding subsection 9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in subsections 7 (B) (4) and 7 (B) (5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection 9.

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**165.19 SPECIAL PERMITS.** The Board of Adjustment may by special permit, after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this chapter.

1. Any public building erected and used by any department of the City, Township, County, State or Federal government.
2. Airport or landing field.
3. Community building or recreation field.
4. Hospitals, nonprofit fraternal institutions, provided they are used solely for fraternal purposes, and institutions of an educational, religious, philanthropic or eleemosynary character.
5. Preschools.
6. Public cemetery.
7. Private golf courses, country clubs, and tennis or swimming clubs.
8. Bus terminals.
9. Pet cemeteries.
10. Telecommunications towers and antennas.
11. Home occupations.

Before issuing any special permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposed building or use with the standards of the existing Comprehensive Plan, as amended, and with recognized principles of civic design, land use planning, and landscape architecture. The Board of Adjustment may approve the special permit as submitted or, before approval, may require that the applicant modify, alter, adjust or amend the proposal as the Board of Adjustment deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals and the general welfare. Applications for a special permit under the terms of this chapter shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings, the areas to be developed for parking, the locations of sidewalks and driveways and the points of ingress and egress, including access streets, where required, the location and heights of walls, the location and type of landscaping and the location, size and number of signs. In the event a special permit is granted under the terms of this chapter, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

**165.20 ADMINISTRATION WAIVER.** This section applies only to Master Plans required herein in conformance with Chapter 171 of this Code and Site Plans required herein in conformance with Chapter 157 of this Code. All major changes to a master plan or to a site plan shall be made in accordance with the procedures in effect at the time of the initial approval. Major changes shall be deemed to be any change not hereinafter listed as a minor change. Minor changes, as hereinafter listed, shall not be made unless the prior approval for such change is obtained from the City Engineer. Such approval shall be in writing and shall be signed by the City Administrator. Upon application, to make a minor change and upon verification that the following conditions have been met, it shall be the duty of the City

Engineer to grant approval to such minor change. Minor changes are deemed to include the following:

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits; shortening of building canopies.
2. Changing to a more restrictive use provided there is no reduction in the amount of off-street parking as originally approved.
3. Changing angle of parking or aisle width in accordance with code provisions provided there is no reduction in the amount of off-street parking as originally approved.
4. Moving of ingress and egress drives a distance not more than one hundred (100) feet if required for traffic regulation.
5. Substitute plant species provided a licensed landscape architect, engineer or architect certifies the substituted special is similar in nature.
6. Increase quantities of plant materials or size of landscaped areas.
7. Change type and design of lighting fixtures provided a licensed engineer or architect certifies there will be no change in the intensity of light.
8. Increase peripheral yards.

#### **165.21 BOARD OF ADJUSTMENT.**

1. **Board Established.** A Board of Adjustment is established which shall consist of seven (7) members. The terms of office of the members of the Board of Adjustment shall be for terms of five (5) years of each. The terms of office of the members of the Board of Adjustment shall be for five (5) years on a staggered basis, and their appointment shall be made by the Mayor with the approval of the Council. Any member of the Board who shall thereafter be absent from three (3) meetings of the Board during any one calendar year, without good cause, shall be deemed to have vacated such office on the occasion of such third absence. The Chairperson shall immediately report such vacancy to the Mayor, who shall, with the approval of the Council, fill such vacancy for the unexpired term. The Board shall not carry on its business without having at least four (4) members present. A majority of the members of the Board of Adjustment should not be involved in the business of purchasing or selling real estate.
2. **Meetings.** The meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson, the acting Chair, 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 a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of four (4) members shall be necessary to constitute a quorum.
3. **Appeal Procedure.**
  - A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected

by any decision of the Zoning Enforcement Officer. Such appeal shall be taken within ten (10) days by filing with the City Clerk a Notice of Appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certifies to the Board, after Notice of Appeal has been filed with the City Clerk, that by reason of the facts stated in the certificate, a stay would in the opinion of the Zoning Enforcement Officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the City Clerk and the Zoning Enforcement Officer and on due cause shown.

B. The Board shall fix a reasonable time for the hearing on the appeal, shall give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a 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 in an amount established from time to time by Resolution of the City Council.

4. Powers and Duties. The Board of Adjustment shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, rescission or determination made by the Zoning Enforcement Officer in enforcement of this chapter.

B. To grant a variation in the regulations when a property owner can show that his property was acquired in good faith; 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 this chapter actually prohibits the use of this property in the district, and that the Board is satisfied under the evidence before it that a literal enforcement of the provisions of this chapter would result in unnecessary hardship; provided however, all variations granted under this clause shall be in harmony with the intended spirit and purpose of this chapter. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation and punishable under provisions of this Code. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by its terms in said district.

C. To permit the following exceptions to the district regulations set forth in this chapter, provided that 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 impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire or endanger the

public safety, and shall not diminish or impair established property values in surrounding areas:

(1) To permit erections and use of a building or the use of premises, or vary the height, yard or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, including the distribution of newspapers, which the Board determines is reasonably necessary for the public convenience or welfare;

(2) To permit the use of property in residential districts for off-street parking purposes as accessory to permitted residential district uses where said parking lots do not immediately adjoin the permitted residential district use;

(3) To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown on record or by existing contract or purchase at the time of the passage of the Ordinance codified in this chapter, but in no case shall such extension of the district boundary line exceed forty (40) feet in any direction.

D. In no instance may the Board of Adjustment grant a variance to any provisions of the adopted Building Codes.

5. Decisions.

A. In exercising the powers and duties set forth in subsection 4, the Board of Adjustment may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as it believes proper. To that end it shall have all the powers of the Zoning Enforcement Officer. The concurring vote of four (4) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution immediately following the Board's final decision shall be filed in the office of the Board and shall be open to public inspection.

B. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.

C. Any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally 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 thirty (30) days after the filing of the decision in the office of the Board.

D. The Board of Adjustment shall be permitted to approve, approve with conditions or deny a request for a variance. Each request for a variance shall be consistent with the following criteria:

- (1) Limitations on the use of the property due to physical, topographical and geologic features.
- (2) The grant of the variance will not grant any special privilege to the property owner.
- (3) The applicant can demonstrate that without a variance there can be no reasonable use of the property.
- (4) The grant of the variance is not based solely on economic reasons.
- (5) The necessity for the variance was not created by the property owner.
- (6) The variance requested is the minimum variance necessary to allow reasonable use of the property.
- (7) The grant of the variance will not be injurious to the public health, safety or welfare.
- (8) The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties.

**165.22 OCCUPANCY PERMITS.** No land shall be occupied or used and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Zoning Enforcement Officer, stating that the building and use comply with the provisions of this chapter and the building and health provisions of the Code. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Enforcement Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this chapter. Prior to the issuance of a certificate of occupancy and compliance, the applicant shall pay to the City Treasurer an appropriate sum as established from time to time by resolution of the City Council.

Where applicable, such sums shall be paid to the City Treasurer upon application for a building permit. Nothing in this part shall prevent the continuance of a nonconforming use as heretofore authorized, unless a discontinuance is necessary for the safety of life or property. Certificates of Occupancy and Compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made for Certificate of Occupancy and Compliance, and no building or premises shall be occupied until that certificate and permit is issued.

**165.23 PLATS.** Each application for a building permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, and such other information as may be

necessary to provide for the enforcement of this chapter. A record of applications and plats shall be kept in the office of the Zoning Enforcement Officer.

#### **165.24 AMENDMENTS.**

1. The Council may, from time to time, on its own action or on petition after report by the Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established. However, no such amendment, supplement, restriction, change of boundaries, or regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in Section 362.3 of the Code of Iowa, except that at least seven (7) days' notice must be given and in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. The notice shall be published in a paper of general circulation in the City. Such amendment, supplement, or change shall not become effective except by a favorable vote of a majority of all of the members of the Council.

2. Whenever any person desires that any amendment or change be made in this Zoning Code, including the text and/or map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of fifty percent (50%) of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of fifty percent (50%) of the area of all real estate lying outside of said tract but within two hundred fifty (250) feet of the boundaries thereof, it shall be the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the Clerk.

3. Where the person desires map to be amended to include the rezoning of property to the Planned Unit Development (PUD) District only, the petition must be duly signed by one-hundred percent (100%) of the area of all real estate included within the boundaries of said tract as described in said petition. Where a person desires to rezone a tract of land to PUD only, the requirement for said petition to be duly signed by any owner of real estate lying outside of said tract may be waived by City Council if Council, upon recommendation by the Planning and Zoning Commission, determines the required Master Plan does not show more intense development of the tract than would be permitted by the existing zoning of said tract.

4. In case the proposed amendment, supplement or change is disapproved by the Zoning Commission, including the text and/or map, or a protest is presented duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent to the rear thereof, extending the depth of one lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of at least four-fifths (4/5) of all members of the Council.

5. Whenever any petition for an amendment, supplement or change of the zoning regulations herein contained or subsequently established shall have been denied by the Council, then no new petition, including the text and/or map, covering the same property and additional property shall be filed with or considered by the Council until one (1) year shall have elapsed from the date of the filing of the first petition. Provided, however, the Council may, in its discretion, by resolution,



authorize the filing of a new petition within one year, upon its showing that an enforcement of this provision would impose an undue hardship upon the owner of such real estate.

6. **Filing Fees.** Before any action shall be taken as provided in this section, the owner or owners of the property proposed or recommended to be changed in the district regulations or district boundaries shall pay to the Clerk a filing fee in an amount established from time to time by resolution of the City Council. In addition to the fee, applicant shall pay to the Clerk, prior to the Council's final consideration of the proposed ordinance, a sum representing the actual cost of mailing notice to surrounding property owners and/or the cost of the publication of notice, as required by this chapter and the actual cost of engineering services incurred by the City in the examination and review of the proposed zoning amendment. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

**165.25 ZONING ENFORCEMENT OFFICER.** There is hereby created the position of Zoning Enforcement Officer who shall be appointed by the Mayor, subject to Council approval, and shall be under the supervision of the Building Inspector. The Zoning Enforcement Officer shall exercise the following powers and duties:

1. The Zoning Enforcement Officer shall have all enforcement powers, including but not limited to the investigation of complaints of zoning violations, issuance of notices to violators, and the preparation and submission to the City Attorney of reports of those zoning violations which continue unabated after exhaustion of reasonable administrative remedies toward their abatement, for such legal action as the facts of each such report may require.
2. In all cases where the City commences court action, the Zoning Enforcement Officer shall cooperate with the City Attorney by performing such additional investigative work as the City Attorney shall require.
3. The Zoning Enforcement Officer shall attend the meetings of the Planning and Zoning Commission and the Board of Adjustment as requested by those bodies, shall investigate and review all cases presented to the Board of Adjustment, and shall advise that body on those cases upon request.
4. In the event the City Attorney, after analysis of the report, institutes legal proceedings, the Zoning Enforcement Officer will cooperate fully with the City Attorney in the perfecting of such proceedings.

**165.26 VIOLATION AND PENALTIES.** Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist constitutes a separate offense.

**165.27 ENFORCEMENT.** In case any building, structure or sign is erected, constructed, or any building, structure, sign or land is used in violation of this chapter, the City Attorney, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

**165.28 SPECIAL EVENTS.** The City recognizes that in certain instances, some flexibility to allow special events out of the confines of a building can be beneficial to business interests, as well as to consumers and the City, provided such events continue to promote public health, safety and general welfare. The following special event applications shall require a fee in an amount determined by resolution of the City Council from time to time.

1. Outdoor sales events, including but not limited to sidewalk sales, shall be permitted for two (2) events per year for a maximum duration of seven (7) days per event, subject to approval of the City Administrator. Outdoor sales events are those sales events that incorporate one of more 24-hour periods and do not involve the sale of dispensing of alcoholic beverages without prior approval from the Council. Outdoor sales shall not create a burden on parking and access facilities. Outdoor sales events shall maintain fire and emergency access at all times. A temporary site plan may be required by the City Administrator to show that the event will not impact the neighboring properties due to noise, congestion, lighting, or additional factors.
2. Seasonal sales events shall be permitted for two (2) events per year for a maximum duration of forty-five (45) days per event subject to approval by the City Administrator. Seasonal sales events shall maintain fire and emergency access at all times. Seasonal sales events are those events that, due to the nature of the product being sold or the time of year that such product is for sale, are best accomplished out of doors. Seasonal sales events do not include the sale or dispensing of alcoholic beverages without prior approval from the Council. A temporary site plan may be required by the City Administrator to show that the event will not impact the neighboring properties due to noise, congestion, lighting, or additional factors.
3. Farmer's market sales events are not permitted except in accordance with subsection 4 of this section.
4. Public special events are permitted, subject to resolution of the Council, and may include (but are not limited to) national golf tournaments.
  - A. Temporary street closures, restricted parking areas, parking restrictions and/or requirements for public special events shall be approved by resolution of Council.
  - B. Temporary structures and/or facilities for such public special events shall be permitted, subject to approval of a Temporary Site Plan by City Council or City staff member designated by the Council.
  - C. Temporary signs for one public special event per year for a maximum duration of ten (10) days per event shall be permitted, subject to approval of the Council.
  - D. Allowance of golf carts on public streets as designated by the Police Chief.
  - E. Restriction on parking without a permit in designated restricted street parking areas.
  - F. Temporary non-paved parking areas for one public special event per year for a maximum duration often (10) days per event unless additional days are approved by the Council shall be permitted as follows:
    - (1) Temporary unpaved parking areas shall be permitted on private property for no more than two (2) vehicles subject to approval of the Police Chief.

- (2) Temporary unpaved parking areas for more than two (2) vehicles shall be permitted subject to approval of a Temporary Site Plan by the Planning and Zoning Commission and Council.
5. Temporary site plans for events other than those mentioned above shall be approved by the Planning and Zoning Commission and Council. Such events shall require the appropriate permits and/or licenses, including but not limited to: liquor, transient merchants, and chemical toilets. Temporary site plans shall be submitted with Permit Application form supplied by the City Clerk.

<b>EDITOR'S NOTE</b>			
<p>The following ordinances have been adopted amending the Official Zoning Map described in Section 165.04 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.</p>			
Ordinance No.	Adopted	Ordinance No.	Adopted
All Zoning Map Ordinances adopted prior to Ordinance No. 2010-1500			
2011-200	2-28-11	2013-200	4-8-13
2011-400	6-13-11	2013-1000	9-23-13
2012-300	6-25-12	2013-1100	9-23-13
2012-800	10-22-12	2013-1600	11-25-13
2015-200	1-12-15	Adopted a New Official Zoning Map	
Ordinance No.	Adopted	Ordinance No.	Adopted
2015-500	6-22-15	2017-300	February 13, 2017
2016-1800	6-13-16	2017-1100	November 13, 2017
2016-1900	6-13-16		
2016-2000	6-13-16		
2016-2100	6-13-16		
2016-2400	8-19-16		
2016-2500	9-26-16		
2016-2600	11-14-16		
2016-2700	12-12-16		

*(Ch. 165 - Ord. 2010-1500 – May 10 Supp.)*

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## CHAPTER 166

### SIGNS

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**166.01 PURPOSE.** The purpose of this chapter is to provide that signs shall be safely constructed and kept in a safe condition, and that signs shall not be located so as to cause a safety hazard.

**166.02 DEFINITIONS.** For use in this chapter, the following terms are defined as follows:

1. “Erect” means to build, construct, attach, hang, suspend or affix, and also includes the painting of wall signs.
2. “Facing” or “surface” means the surface of the sign upon or against or through which the message is displayed or illustrated on the sign.
3. “Freestanding sign” means any sign supported by uprights or braces, placed upon the ground and not attached to any building.
4. “Illuminated sign” means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as part of the sign proper.
5. “Monument sign” means a freestanding ground sign that does not have any exposed pole or pylon and is attached to a base for at least 66% of the entire width of the sign. Monument signs shall be constructed with materials chosen for their durability and strength, in addition to aesthetic value, and shall match the materials of the principal structure. No gap will be permitted between the sign and the pedestal base that is greater than five percent (5%) of the total height of the sign.
6. “Multi-lot sign” means any freestanding monument sign that provides identification or advertisement for more than one lot in a contiguous commercial or industrial development, said sign being under common control.
7. “Multi-tenant sign” means any freestanding monument sign that provides identification or advertisement for more than one premises in a commercial or industrial development under common ownership, management or control.
8. “Off-premises sign” means any sign advertising or identifying any interest of any person or firm, products, accommodations, services or activities not provided on the premises in which the sign is placed.

9. "Pole sign" means any freestanding sign that is supported by one or more posts or pylons or is not considered a monument sign.
10. "Portable sign" means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to the following: signs designed to be transported by the means of wheels, trailers or chassis, whether or not the wheels are presently attached; sign constructed as or converted to A- or T- frames; menu and sandwich board signs; balloons or other hot-air or gas filled figures; and signs attached to or painted on vehicles parked and visible from the public right-of-way and not being used in the normal day-to-day operations of the business.
11. "Prohibited material" for signs will include paper and cardboard material.
12. "Projecting sign" means any sign which is attached to a building or other structure and extends more than six (6) inches beyond the line of said building or structure or beyond the surface of that portion of the building or structure to which it is attached.
13. "Roof sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.
14. "Sign" means and includes every sign, billboard, freestanding sign, wall sign, roof sign, illuminated sign, projecting sign and temporary sign, and includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interest of any person when the same is placed out of doors in view of the general public.
15. "Street line" means the place where the public sidewalk begins and the private property line ends.
16. "Structural trim" means the molding, battens, cappings, nailing strips, laticing and platforms which are attached to the sign structure.
17. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement.
18. "Wall sign" means all flat signs of solid face construction which are placed against the building or other structure and attached to the exterior front, rear or side wall of any building or other structure, which includes all signs painted on exterior surface of building.

**166.03 PERMIT REQUIRED; EXCEPTIONS.** It is unlawful for any person to erect, alter, or relocate within the City limits, any sign or other advertising structure as defined in this chapter without first obtaining a sign permit from the Building Inspector and making payment of the fee required by Section 166.06 hereof unless said sign is exempted in accordance with Section 166.13 herein. All illuminated signs shall, in addition, be subject to the provisions of the *Electrical Code*, and the permit fees required thereunder. This section does not apply to preexisting signs within the City as defined by Section 166.24 herein. However, it does apply to any sign which is altered or relocated within the City or any sign located on a property that is being substantially improved.

1. No sign shall be allowed unless specifically permitted in this chapter.

2. No temporary signs, except garage sale signs, shall be placed within public rights-of-way or alleys unless specifically approved by the City Administrator. All temporary signs illegally placed within public rights-of-way shall be subject to removal by the Code Enforcement Officer, Police Department or Public Works Department.

3. No permanent signs shall be placed within public rights-of-way or alleys unless they are for civic purposes and have been specifically approved by the Council.

**166.04 PERMIT APPLICATION.** Application for sign permits shall be made upon forms provided by the Building Inspector and shall contain or have attached thereto, the following information:

1. Name, address and telephone number of the applicant;
2. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;
3. Position of the sign or other advertising structure in relation to nearby buildings or structures and, in the case of freestanding signs, the setback from public right-of-way;
4. One blueprint or drawing of the plans and specifications and method of construction and attachment to the building or in the ground;
5. Copy of stress sheets and calculations showing the structure is designed for dead load and wind pressures in any direction in the amount required by this chapter and other ordinances of the City as the Building Inspector deems necessary;
6. Name of person, firm, corporation or association erecting the structure;
7. Off-premises wall signs shall have written consent of the owner of the building, structure or land upon which the structure is to be erected;
8. Any electrical permit required and issued for said sign.

**166.05 PERMIT ISSUANCE PROCEDURE.** It is the duty of the Building Inspector, upon the filing of an application for a sign permit, to examine the same, and if it appears that all required information has been submitted and that the proposed sign is otherwise in compliance with all the requirements of this chapter and all other ordinances of the City, the Building Inspector shall then issue the sign permit. If the work authorized under a sign permit has not been completed within six (6) months after the date of issuance, the said permit shall become null and void.

**166.06 PERMIT FEES.** Every applicant, before being granted a sign permit, shall pay to the Clerk for each sign a permit fee according to a schedule adopted from time to time by resolution of the Council.

**166.07 HOME OCCUPATIONS.** No advertising or identification sign of any kind shall be permitted in connection with home occupations or home offices which are permitted in residential districts under the Zoning Ordinance and other regulations of the City, except as provided in Section 166.13.

**166.08 UNSAFE OR UNLAWFUL SIGNS.** If the Building Inspector finds that any sign regulated hereunder is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, such official

shall give written notice thereof to the permit holder by certified and regular mail, unless such illegal sign is a temporary sign located within public rights-of-way or alleys, the removal of which requires no prior notification by the Code Enforcement Officer, Police Department or Public Works Department. Such notice shall include a statement explaining the alleged violations and deficiencies, an order to repair or remove said sign, and an explanation of the consequences of failure to comply with said order. If the permit holder fails to remove or alter said sign so as to comply with the order within ten (10) days after such notice, the offending sign may be removed or altered by the Code Enforcement Officer, Police Department, Public Works Department or the Building Inspector at the expense of the permit holder or owner of the property on which it is located. The permit holder may appeal the order of the Building Inspector to the Council, and if such appeal is on file, the 10-day compliance period shall be extended until 10 days following the Council's decision on the matter. If, however, the Building Inspector finds that any sign imposes a serious and immediate threat to the safety or health of any person, such official may order the removal of such sign summarily, and without notice to the permit holder. Such an order may be appealed to the Council, and, if the Council reverses, it shall order restitution at the City's expense.

**166.09 PERMIT REVOKED; EFFECT OF REVOCATION.** Any permit holder who fails to comply with the valid order of the Building Inspector within the allotted time, or who fails to pay reasonable removal or repair expenses assessed under the preceding section, shall have the permit as to such sign or signs revoked, and another permit for the erection of such sign or signs shall not be issued to said permit holder for a period of one year from the date of revocation.

**166.10 PAINTING AND MAINTAINING.** The owner of any sign, as defined and regulated by this chapter, shall be required to have properly painted and maintained all parts and supports of the said sign, including maintenance or treatment as is necessary to prevent rust.

**166.11 WIND PRESSURE AND DEAD LOAD REQUIREMENTS.** All signs and other advertising structures shall be designed and constructed to resist wind pressure, live load, and dead load requirements. For any particular sign in question, the City Inspector may require a structural engineer's certification indicating compliance with acceptable structural standards.

**166.12 REMOVAL OF CERTAIN SIGNS REQUIRED.** Any sign now or hereafter existing, which has not, for more than six (6) months after the last day of business, advertised a bona fide business conducted or a product sold, shall be taken down and removed within ten (10) days after written notification from the Building Inspector, and upon failure to comply with such notice within the time specified in such order, the Building Inspector is hereby authorized to cause removal of such signs, and any expense incident thereto shall be paid by the owner of the building or structure to which said sign is attached. Time extension may be made by the Council upon written request from said owner. Further, if any existing sign is, upon inspection, found to be unsafe, or in a state of disrepair, such as to affect the health, safety or welfare of the citizens, the sign shall come within the provisions of Section 166.08 of this chapter.

**166.13 EXEMPTIONS.** The provisions and regulations of this chapter shall not apply to the following signs; provided, however, said signs shall be subject to the provisions of Section 166.08.

1. Real estate signs not exceeding eight (8) square feet in area, which are temporary and which advertise the sale, rental or lease of the premises upon which



said signs are located, with no more than one real estate sign allowed per street frontage for each lot;

2. Open House signs not exceeding eight (8) square feet in area, placed upon the premises of said Open House and placed only during the hours in which the Open House is manned, with no more than one Open House sign allowed per lot;
3. Garage sales signs in accordance with Section 166.26 hereof;
4. Professional name plates not exceeding two (2) square feet in area;
5. Bulletin boards not over eight (8) square feet in area for public, charitable or religious institutions when the same are located on the premises of said institution;
6. Occupational signs denoting only the name and profession of occupants in the commercial building, public institutional building or dwelling house, and not exceeding two (2) square feet in area;
7. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials;
8. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or non-advertising signs which may be approved by the Council;
9. Nonprofit and/or civic organizations, including schools, signs placed on public property in compliance with the policy adopted by the Council;
10. Signs under gasoline canopies having letters no taller than 4 inches and a sign area no greater than two (2) square feet.

**166.14 OBSTRUCTIONS PROHIBITED.**

1. No sign shall be erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a stand pipe or fire escape.
2. No sign regulated by this chapter shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes the use of the words "STOP," "LOOK," "DRIVE-IN," "DANGER" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
3. No signs regulated by this chapter shall encroach upon or have posts, guides, or supports located within any public right-of-way or alley.

**166.15 FACE OF SIGN TO BE SMOOTH.** All signs which are constructed on a street line or within five (5) feet thereof shall have a smooth surface and no nails, tacks, or wires shall be permitted to protrude therefrom, except electrical reflectors or devices which may extend over the top and in front of the advertising structures.

**166.16 REFLECTORS AND LIGHTING EQUIPMENT.** Gooseneck reflectors and lights shall be permitted on freestanding signs and wall signs; provided, however, the

reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of sign as to prevent glare upon the street or adjacent property.

**166.17 CERTAIN LIGHTS PROHIBITED.** It is unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights, except in areas designated as C-1 zoning areas where a sign may extend up to six (6) inches over public property.

**166.18 FREESTANDING SIGNS.**

1. All freestanding signs, for which a permit is required under this chapter, shall have a surface or facing of one-half (½) inch MDO plywood or better quality.
2. All freestanding signs constructed or substantially improved after the adoption of the ordinance codified in this chapter shall be monument signs.
3. All letters, figures, characters, or representations in cutout or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign, shall be safety and securely built or attached to the sign structure.
4. It is unlawful to erect any freestanding sign whose total height is greater than ten (10) feet above the level of the street upon which the sign faces or above the adjoining ground level, if such ground level is above street level.
5. Open space may be required between the base line of the sign and the ground line when deemed necessary to provide visibility for traffic and public safety.
6. Freestanding signs shall be no nearer the street right-of-way than ten (10) feet.
7. Freestanding signs shall not exceed one (1) square foot per lineal foot of building frontage with 100 square feet total signage maximum, except multi-lot signs and multi-tenant signs as discussed herein. Shielded spotlight, internal message, internal lighting and back lighting signs are permitted in all commercial and industrial districts.
8. All posts, anchors, and bracing for the same, shall be treated to protect them from moisture by creosoting or other approved methods when they rest upon or enter into the ground.
9. All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof, in a clean, sanitary and inoffensive condition, and free from all obnoxious substances, rubbish and weeds.
10. Signage in C-2A Districts shall meet a standards policy proposed by the Planning and Zoning Commission and adopted by the Council. Multi-tenant signs shall be permitted to have a maximum area of 150 square feet total signage. Multi-lot signs are encouraged and shall be permitted to have a maximum area of 200 square feet total signage.

**166.19 WALL SIGNS.**

1. All wall signs, for which a permit is required under this chapter, shall have a surface or facing of one-half (½) inch MDO plywood or better quality.
2. Wall signs shall not exceed one (1) square feet per lineal foot of building frontage with 100 square feet total signage maximum per street frontage. Logos, stripes and similar items shall be considered part of the sign area.

3. Shielded spotlight, backlit lettering, gooseneck lighting and internally lit channel letters are permitted in all commercial and industrial districts. Internally lit panel signs are permitted in the Central Business District only.
4. No wall sign shall be permitted to extend more than six (6) inches beyond the building line, defined herein as a projecting sign, and shall not be attached to a wall at a height of less than ten (10) feet above the sidewalk or ground.
5. All wall signs shall be safely and securely attached to the building wall by means of metal anchors, bolts or expansion screws of not less than three-eighths (3/8) inch in diameter imbedded in the wall at least five (5) inches in depth; provided however, such signs may rest in or be bolted to strong, heavy, metal brackets, set not over six (6) feet apart, each of which shall be securely fixed to the wall as hereinbefore provided. In no case shall any wall sign be secured with wire, strips of wood or nails.
6. Canopy signs at gas stations and convenience stores are permitted, however the area of each canopy sign, up to a maximum of 25 square feet, shall be considered as part of the permitted total square footage permitted for wall signs. Any portion of the canopy sign that is internally lit shall be considered part of the sign.
7. Awning signs are considered wall signs if the awning does not project more than four feet from the building wall; however, only the lighted portion of the awning, together with lettering and logos, shall be considered a wall sign. An awning that is an architectural feature and not internally lit and which does not contain lettering or logos shall not be considered a sign.
8. All wall signs shall conform to the requirements of Section 166.11.

#### **166.20 SUBDIVISION IDENTIFICATION SIGNS.**

1. In Planned Unit Development (PUD) Districts, subdivision identification signs which are of a landscaping nature are permitted and may be free-standing. Such signs shall be of such materials and design as shown on an approved Site Plan and there shall be an owner's association that provides for the maintenance of the sign, structures and landscaping. The sign fascia may not exceed 220 square feet.
2. In Residential and Commercial Districts, subdivision identification signs which are of a landscaping nature are permitted, and may be freestanding. Such signs shall be of such materials and design as shown on an approved Site Plan and there shall be an owner's association that provides for the maintenance of the sign, structures and landscaping. The sign fascia may not exceed 100 square feet.
3. The minimum setback required of a subdivision identification sign is five feet.
4. The maximum height of a subdivision identification sign is ten feet.

**166.21 TEMPORARY SIGNS.** Signs in this subsection shall be permitted in all districts and require a temporary sign permit. Such signs shall be limited to two (2) events per year for any one business. Each temporary sign event shall last for a period of not more than ten (10) days and shall not exceed two occurrences in a calendar year. In conjunction with a temporary site plan, the Council may permit the display of temporary signs for a greater period of time. Temporary wall signs shall be no larger than 100 square feet. Temporary free-standing signs shall be no larger than 32 square feet in area and have a minimum sign setback of five feet. Under no circumstances shall any temporary sign be located on public property.

1. Grand opening signs for new businesses shall be permitted for a period of not more than sixty (60) days.
2. Real estate/project identification signs for new subdivisions shall be permitted and shall not exceed 32 square feet on each face, with a maximum of two faces per sign. In residential districts, real estate/project identification signs shall be limited to one sign per subdivision unless the subdivision has more than 1,000 feet of frontage along one public street, in which case no more than two real estate/project identification signs are permitted. Said sign shall be removed before issuance of the final building permit in the subdivision. In commercial or industrial districts, real estate/project identification signs shall be limited to one sign for each lot listed which shall be removed before issuance of a certificate of occupancy for the lot on which the sign is located.

**166.22 OFF-PREMISES SIGNS.** Off-premises wall signs are permitted in commercial or industrial zoned areas provided they meet all requirements of this chapter. Such signs will be subject to the square footage limitations pertaining to the building on which they are erected.

**166.23 PROHIBITED SIGNS.** The following signs shall not be permitted, erected, or maintained on any property within the City.

1. Roof signs.
2. Pole signs. Existing pole signs constructed prior to the adoption of the ordinance codified in this chapter shall be brought into compliance when the sign is altered or the property redeveloped.
3. Projecting signs.
4. Billboards.
5. Off-premises free-standing signs.
6. Portable or temporary signs, except as permitted elsewhere in this chapter.
7. Spotlights or strobe lights, whether stationary or moving, intended to draw attention to a location of a property and not primarily intended to accent the signage or building form, except as expressly permitted by the City in conjunction with a temporary site plan.
8. Any signs not specifically permitted herein including any sign unlawfully installed, erected or maintained in violation of this chapter.

**166.24 EXISTING SIGNS NOT AFFECTED.** Any existing sign, otherwise conforming to the Zoning Ordinance and regulations of the City on the effective date of the applicable ordinance codified in this chapter, shall be permitted to remain, provided that no such sign shall be replaced or substantially improved, remodeled, repaired, or modified, except in conformance with all of the provisions of this chapter.

**166.25 ANNUAL INSPECTION.** The Building Inspector shall inspect annually, or at such times as the inspector deems necessary, each sign regulated by this chapter for the purpose of ascertaining whether the same is secure or insecure and whether it is in need of removal or repair.

**166.26 GARAGE SALE SIGNS.**

1. For purposes of this section the term “garage sale sign” means any temporary sign placed by a residential property owner advertising the location of a temporary sale, but does not include signs advertising real estate for sale.
2. Garage sale signs shall be permitted, notwithstanding any other provisions of this Code of Ordinances to the contrary, but only in accordance with the following regulations:
  - A. Signs may be placed only by the residents of the property at which the sale is to take place.
  - B. No sign shall be permitted to be placed more than twenty-four (24) hours in advance of the garage sale, except for estate sales, and any signs placed must be removed within twenty-four (24) hours after the sale is completed.
  - C. No sign larger than three (3) square feet shall be permitted. No lighted or electrical sign shall be permitted.
  - D. Any sign posted shall be attached to its own supporting stakes. No sign shall be taped or attached to any existing sign-post, utility pole or tree in the public right-of-way.
  - E. All signs shall be placed either on public right-of-way or in the tenant’s own yard. No sign shall be placed on private property without the express permission of the owner of such property.
  - F. No sign shall be placed at any location or in any manner which, in the judgment of the Police Chief, interferes with the safe movement of traffic or which otherwise poses any hazard to person or property.
3. The Code Enforcement Officer, Police Chief or designated Police Department or Public Works Department employee shall have complete authority to enforce the provisions of this section and may summarily remove any sign which is posted in violation of this section.

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## CHAPTER 170

# SUBDIVISION REGULATIONS

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**170.01 TITLE.** These regulations shall hereafter be known, sited, and referred to as the Subdivision Regulations of the City of Polk City, Iowa.

**170.02 POLICY.**

1. In order to promote orderly and planned development within the City's jurisdiction, all subdivisions of land and the subsequent development of the subdivided plat is subject to the control and approval of the City pursuant to the Code of Iowa.
2. Land to be subdivided shall be suitable for building purposes without danger to health or perils from fire, flood, and other menace, and shall not be subdivided until adequate utilities, drainage, streets and similar improvements exist or are satisfactorily provided for.
3. The proposed improvements all conform to the comprehensive plan of the City.

**170.03 PURPOSE.** It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Building Codes, Zoning Ordinance, Comprehensive Plan and Urban Design Standards and Urban Standard Specifications. These regulations are adopted in order to lessen congestion in the street; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to avoid undue crowding of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, recreational facilities and other public requirements; to conserve the value of property and encourage the most appropriate use of land throughout the City, in accordance with the comprehensive plan.

**170.04 DEFINITIONS.** For the purpose of interpreting these regulations, certain words, terms and expressions are herein defined.

1. “Active recreation area” means that part of a park which can be utilized for the placement of intensive recreational activities and facilities including athletic fields; tennis, basketball, or general purpose courts; playground equipment; wading pools; ice skating rink; etc. An active recreation area shall have sufficient level areas uninterrupted by streams and drainage ditches to permit its development with optimum slopes ranging from 2% minimum to 5% maximum.
2. “Alley” means a public thoroughfare not more than twenty-four feet (24') in width, for the use of vehicles which afford only a secondary means of access to abutting property.
3. “Apartment” means a room or suite of rooms located within a building which serves as a home or place of residence for three or more families living independently, wherein units may be rented, leased or occupied by the owner and a majority of the units gain access through a common hallway.
4. “Applicant” means an owner or subdivider or land proposed to be subdivided or such owner’s representative. Where application is made by someone other than the legal owner, consent shall be required from the legal owner of the premises as a part of the application.
5. “Attached single-family unit” means a dwelling unit which is most commonly horizontally attached to another dwelling unit within a “townhouse” style residential building wherein each unit has direct access to from the exterior of the building rather than through a common hallway.
6. “Auditor’s plat” means a plat prepared at the request of the County Auditor to clarify property descriptions and for the purpose of assessment and taxation.
7. “Bond” means cash deposits, surety bonds or instruments of credit in the amount and form satisfactory to the City. All bonds shall be accepted and approved by the Council whenever a bond is required by these regulations.
8. “Builder” means any person acquiring a building permit from the City in order to erect or repair a structure or structures or any portion of the same.
9. “Building line” means a line on a plat between which line and 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.
10. “Commission” means the Planning and Zoning Commission of the City.
11. “Comprehensive Plan” means the current comprehensive plan, as amended, for the development of the City, or any of its geographical parts, prepared for and adopted by the Council, and includes any parts of such plans separately adopted and any amendment to such plans or parts thereof.
12. “Construction plan” means the maps or drawings prepared by a registered engineer accompanying the subdivision plat and showing the specific location and design of improvements to be installed in the subdivision. The term “construction drawing” means the same.
13. “Contractor” means any person who constructs the improvements required herein.
14. “Cul-de-sac” means a street permanently closed to through traffic being terminated by a permanent turn-around.



15. “Dead-end street” means a street presently closed to through traffic at the end and is planned for future extension.
16. “Dedication” means the payment of a fee to be used exclusively by the City for park development.
17. “Detached single-family unit” means a dwelling unit which is not attached to any other unit and is intended for the occupancy of one family and entirely surrounded by yard on the same lot.
18. “Developer” means any person acting or proposing to subdivide or develop land for the construction of a building or buildings.
19. “Development” means a parcel of real estate wherein a developer proposes to subdivide or develop land for the construction of a building or buildings.
20. “Drainageway, improved” means an improved ditch, stream or waterway with shaped inverts, graded slopes and controlled velocities.
21. “Drainageway, natural” means an existing ditch, stream or waterway in as natural condition as possible and which can be maintained as such in the opinion of the City Engineer.
22. “Easement” means a right-of-way granted for the purpose of limited private, public or semi-public use across private land for specifically designated purposes.
23. “Grade” means the slope of a road, street, utility, earth embankment or other facility specified in percent of vertical to horizontal measurements.
24. “Greenways” or “greenbelts” means strips of open space usually in conjunction with streams and drainageways which principally serve as both a public access to the drainage system and as passive recreation area. These strips can offer intermittent recreational areas, as well as serving as scenic connections and trails for pedestrian and bicycle riders between major park facilities.
25. “Improvements” means any drainage, roadway, parkway, storm sewer, sanitary sewer, water main, sidewalk, pedestrian way, tree, lawn, off street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for construction, maintenance and/or operation, or which may affect an improvement for which the City’s responsibility is established.
26. “Lot” means a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.
27. “Neighborhood mini park” means a specialized neighborhood recreational area to serve a concentrated or limited population designed for a specific age group such as preschool or elementary.
28. “Neighborhood park” means a public park established as the center of recreational activities for a neighborhood park district. Neighborhood parks are designed to serve all age groups and includes passive recreational areas and active recreation facilities such as children playground apparatus, athletic fields, court game facilities, wading pools, ice skating rinks, picnicking areas and shelter facilities.
29. “Open recreation space” means an open tract of land unencumbered by paving and structures, with the exception of recreational structures including but not limited to; ball field backstops, benches, picnic tables and playground equipment.

30. "Owner" means any person, group of persons, firm corporation or other legal entity having legal and equitable title in the land sought to be subdivided under these requirements.
31. "Park Commission" means the Parks and Recreation Commission of the City.
32. "Park development" means park site acquisition and/or physical improvement of the neighborhood park system.
33. "Park land" or "park system" includes within the corporate boundaries of the City.
34. "Passive recreation area" means part of a park system that is not intended for intense recreational use but has been reserved as open space for visual and psychological relief from the urbanized environment and may act as a greenway or greenbelt providing a park strip along drainageways and a passive connecting system between active recreation areas.
35. "Plans of record" means plans prepared by a registered engineer, showing such engineer's signature and certifying that the public improvements have been constructed as shown.
36. "Plat" means a map, drawing or chart on which the subdivider's plan of the subdivision is submitted and which the subdivider submits for approval and intends in final form to record.
37. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
38. "Registered engineer" means an engineer properly licensed and registered in the State of Iowa.
39. "Registered land surveyor" means a land surveyor properly licensed and registered in the State of Iowa.
40. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary sewer, storm sewer main, shade trees, or for another special use. The usage of the term right-of-way for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established, except as otherwise provided in these regulations.
41. "Street, arterial" means a high capacity roadway, lower level of mobility but higher level of land service than the major arterial, as designated in the comprehensive plan.
42. "Street, collector" means a street which penetrates neighborhoods to collect local traffic and channel it to the arterial system. The collector streets are designed with approximately equal regard to mobility and land service, as designated in the comprehensive plan.

43. “Street, local” means a low-volume street designated for access to abutting property, as indicated in the comprehensive plan.
44. “Street, major arterial” means a high capacity roadway primarily designed for mobility with land service as a minor function, as designated in the comprehensive plan.
45. “Street” means any thoroughfare or public way extending between two right-of-way lines which has been or will be dedicated to the City for street purposes.
46. “Structure” means anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground, but not including driveways, sidewalks, patios, or fences up to thirty-six (36) inches in height, or poles and appurtenances thereto used for the provision of public utilities. The term “building” means the same.
47. “Subdivider” means any person who, having interest in the land, causes it, directly or indirectly, to be divided into a subdivision or to be included in a proposed subdivision or resubdivision.
48. “Subdivision” means the division of a lot, tract, or parcel of land into two or more lots, parcels or other subdivisions of land for the purpose of immediate or future sale or transfer or for building improvements. The term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.
49. “Polk City Extra-territorial Jurisdiction” means the unincorporated area of Polk County within a two-mile radius of the corporate limits of Polk City with the exception of those areas lying southwesterly of the Des Moines River and Saylorville Lake and having street access to Polk City via the Mile-long Bridge currently on Highway 415 (W. Bridge Road) as of the passage of the ordinance codified in this subsection. *(Ord. 2010-2200 – Apr. 11 Supp.)*

#### **170.05 JURISDICTIONAL AREA.**

1. In accordance with the provisions of Chapter 354 of the Code of Iowa and, specifically, under the authority of Section 354.9, these regulations shall apply to all subdivisions of land within the corporate limits of the City and within the Polk City Extra-territorial Jurisdiction. It is the specific intent and purpose of this provision to extend all applicable regulations concerning the subdivision of land as set forth in this chapter to all land within the Polk City Extra-territorial Jurisdiction and to establish the City’s jurisdiction for review and approval of such subdivision to such areas.
2. No land within the corporate limits of the City or within the Polk City Extra-territorial Jurisdiction shall be subdivided unless and until:
  - A. The subdivider has obtained final approval of the plat itself which shall be in conformance with all the regulations contained in this chapter; and
  - B. No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with the provisions of these regulations. No excavation of land or construction of any public or private improvement shall take place or be commenced until in conformity with these regulations.
3. All plats of survey, plats, replats or subdivisions of land into three (3) or more parts for the purpose of laying out a portion of the City, an addition thereto or

suburban lots within the Polk City Extra-territorial Jurisdiction for other than agricultural purposes shall be submitted to the Council and the Commission in accordance with the provisions of this chapter and shall be subject to the requirements established herein. This chapter shall regulate the subdividing of land within the City and all land within the Polk City Extra-territorial Jurisdiction in accordance with the provisions of Section 345.9 of the Code of Iowa.

4. No plat of survey, plat or subdivision in the City or within the Polk City Extra-territorial Jurisdiction 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.

*(Ord. 2010-2200 – Apr. 11 Supp.)*

**170.06 INTERPRETATION.** These regulations shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by these regulations to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations or any other ordinance, rule and regulation, or other provisions of law, whichever provisions are more restrictive or impose higher standards shall control.

**170.07 SAVING CLAUSE.** If any section, subsection, paragraph, sentence, clause or phrase of these regulations should be invalid for any reason whatsoever, such decision shall not affect the remaining portion of these regulations, which shall remain in full force and effect and to this end the provisions of these regulations are declared to be severable.

**170.08 RESERVATIONS AND APPEALS.** Any subdivision plat that has received preliminary approval by the Council prior to the effective date of these regulations shall be subject to the conditions effective at the time of the approval and for a period of one year from such date of approval, and shall continue to be processed according to those requirements during such period. The preliminary approval shall be considered null and void if, after one year from the time of such preliminary plat approval, the applicant has not made application for final plat approval by the Council. Any future subdivision of any portion of the property subject to such prior preliminary plat approval shall be made in conformance with these regulations.

**170.09 ACRE SUBDIVISION.** When land is subdivided and subdivision plat shows one or more lots containing more than one acre of land suitable for future resubdivision into smaller building sites, the Commission may require that such parcel of land be so subdivided as to allow for future streets and the extension of the existing street system to the acre.

**170.10 AUDITOR'S PLATS.** The Commission and Council shall have the right to waive provisions governing preliminary and final approval and public improvements outlined in Sections 170.16, 170.28 and 170.29 of these regulations for auditor's plats, providing there is on file with the City a copy of the request of the County Auditor ordering such plat and a letter from the Auditor stating that the plat as submitted meets the requirements for which the Auditor has ordered the plat.

**170.11 VACATION OF PLATS.** Vacation of plats shall be in accordance with the provisions of Chapter 354 of the Code of Iowa.

**170.12 VARIATIONS AND EXCEPTIONS.** Whenever the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardship or injuries, the Council, upon written recommendation of the Commission, may modify or vary such requirements to the end that the subdivider is allowed to develop the property in a reasonable manner; provided, however, all such variations and exceptions granted hereunder shall be in harmony with the intended spirit of these regulations and granted with a view toward protecting the public welfare and interest of the City and the surrounding area.

**170.13 FEES.**

1. Before a preliminary plat, final plat or plat of survey shall be considered by the Commission, the applicant or agent shall deposit with the Clerk a fee according to a schedule adopted from time to time by resolution of the Council. The appropriate fees shall be deposited following Council action on the preliminary plat, final plat or plat of survey. In the event that said fees are insufficient to reimburse the City for engineering charges incurred by the City in the examination and review of the preliminary plat, final plat or plat of survey, the subdivider shall be responsible for any additional fees incurred by the City for such engineering charges.
2. 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.
3. The City shall annually, by resolution, determine the hourly rate which it shall pay for professional engineering services which shall be deemed to be the maximum rate which may be imposed upon any subdivider during such annual period.

**170.14 ENFORCEMENT; VIOLATIONS; PENALTIES.** It is the duty of the Zoning Enforcement Officer to enforce these regulations and to bring to the attention of the Council any violations or lack of compliance herewith. 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, to prevent illegal occupancy of a building structure or premises, and these remedies shall be in addition to other penalties described herein.

**170.15 PARK DEDICATION.**

1. **Definition.** For purposes of this section the term “development application” means any presentation or filing with the City for residential development purposes of any subdivision of land over which the City has subdivision review and approval authority, or the filing or presentation of any site plan, PUD, PUD specific plan, permitted conditional use plan or development, subdivision master plan or area development plan, over which the City has approval authority in compliance with this chapter.
2. **Dedicate Land for Park and Recreational Purposes.** All persons making a development application shall dedicate to the City, within the land covered by the development application, land for park and recreational purposes sufficient to meet the requirements of this section.

A. In each tract of land covered by a development application, there shall be reserved and dedicated to public use a specific amount of land for park purposes for each 1,000 people, based upon the projected population of the completed development application as calculated in accord with this section. The size of the dedicated land parcels shall be determined by formula as applied to current totals of park space available per 1,000 people and established by resolution of the Council. Such dedication shall be prorated to the amount indicated by the projected population to the nearest 1,000 square feet of land to be dedicated, but in any event, no dedication of park space shall contain a total less than 10,000 square feet of land to be dedicated.

B. For purposes of this section, population in the completed area covered by the development application will be determined by multiplying the number of housing units projected in the area covered by the development application for each use category times the anticipated average per unit. The quantity calculated for each residential type shall be added together and the sum shall be the projected population for purposes of the development application. For the purposes of this calculation, the anticipated average population per residential type shall be as follows:

Single Family Residence – 2.76 persons per household

Multi-Family Residence – 1.50 person per household

Townhome Residence – 2.00 persons per household

C. The City may require that all land dedicated under this section be configured or located to optimize aggregations of land and thus may require that the dedicated land be adjacent to the land affected by other development applications or to otherwise maximize usefulness of the land in accord with the City's master parks and trails plan. The City may place similar requirements upon dedications under this section in order to assure useful aggregations of land for greenways.

D. This section shall not apply to any development application which does not include residential development; provided, however, to the extent any development includes residential uses within any development application, park land dedication shall be required to the extent determined in accord with paragraphs A and B of subsection 2 of this section.

E. For purposes of this section the water area of ponds, streams, retention basins, detention basins and other bodies of water and the land area of buffer park easements and site plan open space requirements shall not be included in determining any area dedicated for park or greenway purposes.

F. The dedication of any land for park purposes shall include dedication of a corridor or point of connection for public pedestrian access, the areas of which shall be included in determining compliance with this section.

G. Approval of a development application shall be conditioned upon the construction of (or providing sufficient surety for the construction of) the following improvements in accord with City design standards of:

(1) Streets abutting any dedicated land.

(2) Utility services (including hookups) to any dedicated land including, storm and sanitary sewers, drainage structures, water lines,

gas lines, electric lines, communications lines and such other utilities as are (or will be upon completion) available to adjacent tracts.

- (3) Sidewalks (abutting any public street) and trail connections as appropriate.
- (4) Site grading and seeding.
- (5) Streetlights.

H. If land dedication under this section requires an amendment to the master parks and trails plan, the need for such an amendment will be reported to the Park Commission, which shall make a recommendation to the Council on the development application.

I. The required land dedication under this section shall be reduced when the person making the development application provides public access by easement to recreational facilities, playgrounds, unobstructed open spaces, ball fields, soccer fields, tennis courts, basketball courts, volleyball courts, picnic shelters, recreational trails and other similar non-duplicated recreational facilities which have been (or will be) constructed and maintained by the applicant and are not shown on the master parks and trails plan. There shall not be any credit for swimming pools, clubhouses and other recreational facilities not provided in neighborhood parks, greenways or mini parks under the master parks and trails plan. In order to determine the credit the City shall ascertain the fair market value of the land required to be dedicated under this section and from such value subtract the cost of the recreational facilities constructed by the applicant and provided under this section. The person making the development application shall then only be required to dedicate land equal in value to the remainder.

J. Property subject to public easements for multipurpose trails shown on, or proposed by the City to be shown on, the master parks and trails plan shall be included in the calculation of park land dedicated under this section. Such multipurpose trails shall be built by the applicant to City standards and maintained by the City. Easements for multipurpose trails will include an easement for access of sufficient width for trail maintenance and reconstruction. The City shall restore any land disturbed by maintenance or reconstruction; provided however, the owner of the fee shall be responsible for all trimming, planting and maintenance of vegetation including the responsibility to keep the trail unobstructed, and passage unimpeded by vegetation.

K. The dedication of land for trail space required under this section may include easements to the public of land used or included in the setbacks required in single- or multi-family developments. The easements shall be a minimum of ten (10) feet away from any building, other structure or parking lot on the site.

3. Alternative to Dedication. As an alternative to dedication under subsection 2 of this section, any person filing a development application may provide jointly with other persons for the dedication of land in an amount at least equal to the amount required under subsection 2 of this section, at a location which is not part of the land for which approval is sought, provided that:

- A. Such alternative is within the same neighborhood park district (as such districts are established by resolution of the Council) as the land for which a development application has been made;
  - B. The alternative jointly provided will provide for a park with a total land area of at least five (5) acres, consistent with the master parks and trails plan; and
  - C. Such alternative dedication of land is or has actually been dedicated to the City and has been accepted by the City for use in accord with the master parks and trails plan.
4. **Dedication Requirement Less than 10,000 Square Feet.** Where application of the formula set forth in subsection 2 of this section results in a dedication requirement of less than 10,000 square feet, the person making or filing the development application may elect to dedicate 10,000 square feet of land or fulfill such person's obligation by participating in an option provided by subsection 3 of this section, but such alternative participation shall be based upon the actual calculation under subsection 2 of this section and not upon the equivalent of 10,000 square feet of land.
  5. **Alternate Plan.** Subsections 2 and 3 of this section notwithstanding, any entity required to comply with this section may present an alternate plan which meets the purposes of this section as a means of complying herewith. It will be the burden of the entity presenting such plan to establish that such plan meets the purposes of this section. Any such plan shall be first reviewed by the Park Commission, which shall make a recommendation to be presented to the Planning and Zoning Commission (where Planning and Zoning Commission recommendation is otherwise required) or where the Planning and Zoning Commission does not review, then to the official or board responsible for review. If the Planning and Zoning Commission or other official or board recommendation is not required, such plan and the recommendation of the Park Commission shall be submitted to the Council, which shall approve or reject such plan by resolution. Any alternate proposal must directly and proportionately benefit the development. This subsection, however, does not authorize the payment of impact fees to the City in lieu of the land dedication requirements.
  6. **Single-Family Residential Units.** This section shall not apply to any development application containing three (3) or fewer single-family residential units. A person making or filing a development application shall not divide land into separate plats in order to seek a waiver under this provision. Where a development application is made for multiple contiguous tracts within any two (2) years, the City may treat all the development applications as one for purposes of this section.
  7. **Appeal Procedure.**
    - A. **Notice of Appeal; Fee.** Any person making or filing a development application or any person affected by any decision made by any department acting under this chapter may appeal to the Council by filing notice of appeal with the Clerk and paying a filing fee of one hundred dollars (\$100.00) payable to the City to be credited to the General Fund of the City. Such appeal shall be taken within ten (10) days after the decision of the department acting under this chapter and shall set out in detail the reasons and grounds for the appeal. The Clerk shall forthwith transmit to the Council all papers



constituting the record upon which the action appeal is taken. An appeal stays all proceedings in furtherance of the appeal.

B. Public Hearings. The Council shall, upon the filing of an appeal, fix a reasonable time for a hearing, giving public notice thereof as well as due notice to the parties in interest. All interested persons may offer oral or written testimony at the public hearing on the appeal. A vote of three (3) members of the Council may affirm, modify, or reverse any decision of any department acting under this chapter.

C. Park Commission Review. Prior to the public hearing on appeal before the Council, the Park Commission shall review the decision of any department acting under this chapter and shall make a recommendation to the Council for consideration at the public hearing.

D. Appeal to the District Court. Any person aggrieved by any appeal decision of the Council may, within 30 days after the date of Council's rendering a decision, appeal to the district court of Polk County, Iowa, in accordance with the Rules of Civil Procedure, Division XIV, entitled *certiorari*.

#### **170.16 REQUIRED IMPROVEMENTS AND DESIGN STANDARDS.**

1. The subdivider shall install and construct all improvements required by these regulations in accordance with the Urban Design Standards and Urban Standard Specifications as shown on approved construction drawings and under the inspection of the City. All improvements shall be constructed to the City's satisfaction.
2. The standards and details of design herein contained are intended as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the subdivision, the subdivider shall use the standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.
3. In addition to the requirements established herein, all subdivisions shall comply with the following laws, rules and regulations:
  - A. All applicable statutes of the State of Iowa.
  - B. All applicable provisions of this Code of Ordinances.
  - C. The current comprehensive plan and public utilities plans for the City as may be adopted or revised.
  - D. The requirements and rules of State agencies such as the State Department of Natural Resources, State Department of Health and the State Department of Transportation, where applicable.
  - E. The standards and regulations of the County Board of Supervisors and County commissions, boards and agencies where applicable.
  - F. The Urban Design Standards and Urban Standard Specifications.
  - G. The design of all required improvements shall be done by a registered engineer.

4. Subdivision layouts shall take into account existing street alignments, natural drainage ways, topography or other existing features that may affect the subdivision of future subdivisions of the area.
5. A strip or parcels of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as approved or allowed by the Council.
6. All improvements shall be so designed so that the required utilities will be located outside the pavement slab area. When utilities, for necessity, must cross or run under the slab, they shall be constructed to meet the requirements of the Urban Standard Specifications.

**170.17 WAIVER OF SIDEWALKS.** Notwithstanding the provisions of Section 170.24 and Section 157.08 of this Code of Ordinances, the Council may, by resolution, waive the requirements for the installation of public sidewalks which are adjacent to any lands owned by the Federal government, the State of Iowa, school district or any other political subdivision of the State of Iowa, provided that the granting of such waiver is in the best interests of the citizens of the City. The Council may, in such resolution, grant the waiver subject to the imposition of conditions which the Council deems to be reasonable and proper.

**170.18 STREETS AND RIGHT-OF-WAYS.**

1. All proposed plats and subdivisions shall conform to the comprehensive plan and Zoning Ordinance presently in effect.
2. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width, but not less than sixty (60) feet in width, and in similar alignment, unless variations are recommend by the Commission and approved by the Council.
3. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead-ended, an interim turn-around shall be required.
4. Street intersections shall be as nearly at right angles as possible. No offsets of cross intersecting streets shall be allowed when the offset is less than one hundred fifty (150) feet.
5. Whenever a cul-de-sac is permitted, such street shall be no longer than six hundred (600) feet and shall be provided at the closed end with a turn-around.
6. Streets which are obviously in alignment with existing streets whether adjacent or distant to the proposed subdivision shall bear the names of such existing streets. The proposed names of new streets shall be shown on the plats and such names shall not duplicate or sound similar to existing street names. The council reserves the right to alter or change the proposed names of streets before final acceptance of the plat. Streets shall be designated as follows:

General Direction	Long	Short (600 ft. or less)
North – South	Street	Place
East – West	Avenue	Court
Random Curving	Drive	Lane

7. In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment.

8. Dedication of half streets will not be permitted. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street right-of-way shall be platted and dedicated by the subdivider.

9. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Alley right-of-way shall be twenty-four (24) feet in width. Alleys shall not be permitted in residential districts. Dead-end alleys shall not be permitted.

10. If any overall development plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system shall conform in general thereto.

11. Where the plat to be submitted includes only part of the tract owned by the subdivider, the Council may require topography and a sketch of a tentative future street system of the unsubdivided portion.

12. Where a new subdivision involves frontage on a major arterial, or involves frontage on a collector or local street which, by virtue of its unimproved condition, topography, or location makes it difficult or impractical to maintain and service, the street layout shall provide motor access to such subdivision by one of the following means:

- A. A parallel street, supplying frontage for lots backing onto said unimproved street.
- B. A series of cul-de-sacs or short loops entered from and planned at right angles to such unimproved street.
- C. An access drive separated by a planting strip from said street to which motor access from said street is provided at points suitable spaced.

Where any one of the above-mentioned designs is used, deed covenants, or other means shall prevent any private residential driveways from having direct access to said unimproved street.

13. In the case of an unimproved arterial, collector, or local street, the subdivider at his or her option, may comply with the provisions of either paragraphs A, B and C of subsection 12 above, or may make suitable arrangements for the improvement of said unimproved street, at the subdivider’s sole expense; in which case, all improvements shall be designed and installed in accordance with the design standards of the chapter.

14. A warranty deed to the City shall be given for all streets before the same will be accepted for City maintenance.

15. For the purposes of this subsection, a street shall be deemed to be unimproved if the street is not paved with portland cement concrete or other comparable materials in accordance with the current standard specifications or materials and the construction previously adopted by the City.

16. If a railroad is involved, the subdivision plan should:

- A. Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad.
- B. Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to go back into the railroad.
- C. Form a buffer strip for park, commercial or industrial use.

17. The minimum right-of-way of all proposed streets shall be of the width specified by the comprehensive plan. If not specified therein, the minimum width shall be as follows:

Type Of Streets	Required Right-Of-Way
Divided major arterial	100 feet minimum
Undivided major arterial	80 feet minimum
Arterial	80 feet minimum
Collector	70 feet minimum
Local service	60 feet minimum
Alleys	24 feet minimum

18. All streets should be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level in accordance with the Urban Design Standards.

19. Circular curves shall have a radius of curvature on the centerline of not less than the following:

Street Type	Minimum Curve Radius
Major arterial	500 feet
Arterial	250 feet
Collectors	200 feet
Local service	150 feet

20. All streets shall be paved with Portland cement concrete and have integral curb and gutter. Paving shall be six-inch reinforced or seven-inch non-reinforced concrete. All work shall conform to the Urban Design Standards and Urban Standard Specifications.

21. The City shall provide and install street signs and sign posts upon completion and acceptance of the subdivision, and shall charge the subdivider with the reasonable cost of such acquisition and installation.

22. No private streets shall be permitted in any subdivision unless approved by the Council.

See Roadway Design of the Urban Design Standards for more details.

**170.19 BLOCKS.**

1. No block shall be greater than one thousand three hundred and twenty (1,320) feet or less than two hundred fifty (250) feet between street centerlines. Where the

topography of the platted area requires greater or lesser length, approval of the Council shall be required. In blocks over seven hundred fifty (750) feet in length between street centerlines, a right-of-way of not less than ten (10) feet in width may be required for a crosswalk.

2. At street intersections, block corners shall be rounded with a radius of not less than twenty-five (25) feet.

#### **170.20 LOTS.**

1. Minimum lot dimensions and size shall conform to the requirements of the Zoning Ordinance for the applicable zoning district.

2. Residential lots fronting or backing on a railroad right-of-way or on major arterial streets shall be platted with a minimum depth of one hundred fifty (150) feet to permit increased distances between the building and traffic ways.

3. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major arterial or arterial streets.

4. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed:

A. Lots which cannot be reasonably served by an existing public sanitary sewer system and public water mains shall have a minimum width of one hundred (100) feet, measured at the building line, and an area of not less than one acre in size.

B. Lots which are not within a reasonable distance of public water supply mains but are connected to a sanitary sewer system shall have a minimum width of eighty (80) feet and an area of ten thousand (10,000) square feet.

C. Lots which are not within a reasonable distance of public sanitary sewer system but are connected to a public water supply main shall have a minimum width of eighty (80) feet and an area of ten thousand (10,000) square feet.

5. Side lots lines shall be approximately at right angles to the street or radial to curved streets. Except on large size lots and when indicated by topography, lot lines shall be straight.

6. Depth and width of properties reserved or laid out for commercial or industrial use shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

7. If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the owners of adjacent lots. The Commission may approve an alternative plan of ownership and use, stating the ownership of, and responsibility for, safe maintenance of the water body. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for suitable vehicular/pedestrian access.

#### **170.21 SANITARY SEWER SYSTEM.**

1. The owner of land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area. Said owner shall at his or her

expense construct a sanitary sewer system, including all necessary pumping stations, manholes and other necessary appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area. The minimum sewer line size shall be eight (8) inches at a minimum grade of .4%. The installation of such sewers shall be under the supervision and inspection of the City, and the owner shall be responsible for reasonable charges for such service expenses incurred by the City.

2. All sewers shall be designated by a registered engineer and sized with capacity to permit ultimate development of the sewer service basin. The sewer lines shall be constructed to the extremities of the development where necessary to accommodate future extension.

3. Subdivisions located within the corporate limits of the City shall be connected to the municipal sewer system. Only with special permission shall private sewage disposal or treatment be allowed. When allowed, design of such facilities shall be subject to the requirements and approval of the City.

4. All sanitary sewers shall be constructed in the street right-of-way outside the pavement slab whenever possible.

5. When sanitary sewers are not constructed in the street right-of-way, the subdivider shall dedicate permanent easements to the City for all sanitary sewers required by the City. These easements shall have a minimum width of fifteen (15) feet each side of the sewer centerline. Additional width may be required to insure access by City maintenance equipment.

6. Sewer service lines shall be installed to the right-of-way line to serve each lot in the subdivision at approximately the lower one-third point of the lot to be served. Service lines shall be laid at a 90 degree angle to the sewer main. Service lines shall be a minimum of four (4) inches diameter for single-family and duplex family housing, and six (6) inches diameter for all other zoning classification functions. Duplex housing shall have a separate service line to each unit. Developer and contractor shall accurately record the location of the service line during construction with respect to lot corners, pavement and other physical features. Said locations shall be furnished to the City.

7. Sanitary sewers shall be designed and constructed in accordance with all IDNR requirements and the Urban Design Standards.

#### **170.22 WATER DISTRIBUTION SYSTEM.**

1. The owner of land being platted shall make adequate provision for the supplying of water to the platted area. Said owner shall at his or her expense construct a complete water system, together with all necessary appurtenances to provide adequate water to all parcels of land within the platted area. The main supplying water to subdivision shall not be less than eight (8) inches in diameter. The installation of such water lines shall be under the supervision and inspection of the City and the owner shall be responsible for all reasonable charges for such expense incurred by the City.

2. All water mains shall be designed by a registered engineer and sized with capacity to permit ultimate development of the water service area. The water lines shall be constructed to the extremities of the development where necessary to accommodate future extensions.

3. All water mains shall be constructed in the street right-of-way outside the pavement slab whenever possible.
4. When water lines are not constructed in the street right-of-way the subdivider shall dedicate permanent easements to the City for all water mains required. These easements shall have a minimum width of fifteen (15) feet each side of the water main centerline. Additional width may be required to insure access by City maintenance equipment.
5. Water service lines shall be installed to the right-of-way line of the lots to be served. Service lines shall be laid at a 90 degree angle to the water main and shall be a minimum of ¾-inch diameter for single-family and duplex family housing. All other residential zoning classification functions shall be one inch (1") minimum. Commercial or industrial zoning classification functions shall be sized as required for the specific function. Service lines shall be provided with corporation cocks at the main and curb stops one foot inside the right-of-way from the property line. Duplex housing shall have a separate service line to each unit.
6. Water systems shall be designed and constructed in accordance with all IDNR requirements and the Urban Design Standards.
7. Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than six hundred (600) feet apart and within three hundred (300) feet of any structure and shall be approved by the City.

#### **170.23 STORM SEWER SYSTEM.**

1. The owner of land being platted shall make adequate provision for the disposal of storm water from the platted area. Said owner shall at his or her expense construct a storm sewer system, including all necessary pumping stations, manholes and other necessary appurtenances to provide for the discharge of storm water from all lots or parcels of land, and the streets and alleys within the platted area, to a connection with the City's storm sewer system, or make provisions, to the satisfaction of the City Engineer and Council, for the storm water to reach the City storm sewer system by surface flow.
2. All storm drainage facilities shall be designed by a registered engineer and sized with capacity to permit ultimate development of the drainage basin, but in no case less than the ten-year storm frequency in pipe design. The improvements shall be constructed to the extremities of the development where necessary to accommodate future expansion and shall conform to correct City standard specifications.
3. When the proposed subdivision may have a detrimental effect by increasing the intensity and/or volume of storm water run-off into the City storm water drainage system or onto adjoining properties, detention methods will be required by the City to insure the onsite control of said run-off. Residential development within the R-1 and R-2 zoning districts will be exempt from this requirement. Development in the R-3, C and M districts shall meet the above referenced criteria unless it can be demonstrated to the City Engineer that a lack of detention will not increase the danger of erosion, flooding, landslide or other endangerment of adjoining or surrounding property.
4. All storm sewers shall be constructed in the street right-of-way outside the pavement slab whenever possible.
5. When storm sewers are not constructed in the street right-of-way, the subdivider shall dedicate permanent easements to the City for all storm sewers

required by the City. These easements shall have a minimum width of fifteen (15) feet each side of the sewer centerline. Additional width may be required to insure access by City maintenance equipment.

6. Where dams are proposed in any subdivision, they shall be designed by a registered engineer. A preliminary engineering report, including soil investigations and design procedures, shall be submitted to the City for review. When such dam is constructed, the subdivider's engineer shall certify to the City that the dam is constructed in accordance with the approved plans and specifications.

7. Storm sewer systems shall be designed and constructed in accordance with all IDNR requirements and the Urban Design Standards.

**170.24 SIDEWALKS.** Sidewalks shall be constructed along with all streets within the subdivision in accordance with the Urban Design Standards and Urban Standard Specifications. The owner of the land being platted shall submit to the City a performance bond guaranteeing the construction of all sidewalks within three (3) years of the date of final plat approval by the Council. The amount of said bond shall be the estimated cost of constructing all required sidewalks.

**170.25 STREET LIGHTS.**

1. Street lights are required in all subdivisions unless a variance is granted by the City. Street light locations shall be shown on the utility plan for the subdivision.

2. Exact street light locations will be determined by the City in consultation with the proper utility company. As a general guideline, street lights shall be placed at all street intersections and at other intermediate points as necessary, but in no case shall the street lights be less than three hundred (300) feet apart.

3. The owner of the land being platted shall pay the installation cost of all street lights required and the City will pay the energy costs for operation after installation.

4. Street light locations and electrical distribution system plan shall be provided and approved by the City Administrator in consultation with the City Engineer and Public Works Director.

5. Street light and electrical distribution plan shall be provided and approved by the City Administrator prior to approval of the final plat.

**170.26 UTILITIES.**

1. All utility lines and mains including telephone, electric, and street lighting lines, gas and water mains and other necessary facilities except electric lines of nominal voltage in excess of 15,000 volts shall be installed underground. The subdivider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. Said utility lines shall be installed in such a manner so as not to interfere with other underground utilities. Underground utility lines which cross underneath the right-of-way of any street, alley or pedestrian way shall be installed prior to the improvement of any such street, alley or pedestrian way in the subdivision. Incidental appurtenances, such as transformers and meter cabinets may be placed above ground but shall be located so as not to be unsightly or hazardous to the public.

2. Ten-foot public utility easements shall be provided along the plat boundary and along the rear of all lots within the subdivision. Additional utility easements shall



be provided along side lot lines totaling ten (10) feet in width to provide for utility line and access to such rear lines at sufficient intervals to allow ease of access but in no case further than five (5) lots from one such easement to the next. All utility easements shall have access to a public right-of-way.

3. Utility plan shall be provided and approved by the City Administrator in consultation with the City Engineer and Public Works Director prior to approval of the final plat.

**170.27 STANDARD CONSTRUCTION SPECIFICATIONS.** All construction of public work projects within the jurisdiction of the City, including the type, grade and width of pavement; the design of the drainage system; the water distribution system; the sanitary sewer system; shall be in accordance with the Urban Design Standards and Urban Standard Specifications.

**170.28 PRELIMINARY PLAT AND ACCOMPANYING MATERIAL.**

1. General.

A. The preliminary plat of a subdivision is not intended to serve as record plat. Its purpose is to show on a map all facts needed to enable the City to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. It is encouraged that the subdivider contact the City or the City Engineer in advance of submittal of the preliminary plat, in order to acquaint the City staff with the proposed subdivision, acquaint the applicant with procedure and to discuss any special problems that might relate to the subdivision.

B. All accompanying material shall be deemed a part of the preliminary plat. Any action taken on the accompanying material shall be considered the same and in effect as action on the plat.

C. Accompanying material shall not be shown on the plat drawing but as separate exhibits.

2. Number of Copies and Scale. Twelve copies of the preliminary plat shall be submitted as designated in this chapter for review. The scale of the plat shall be 1 inch equals 50 feet on 24 x 36-inch sheet. Plats at 1 inch equals 100 feet may be submitted on large subdivisions upon approval of the City Engineer.

3. Contents of Preliminary Plat. All preliminary plats submitted shall contain and show on the plat drawing the following items:

A. The name under which the proposed subdivision is to be recorded, compass point, date and scale.

B. Complete legal description of the property being platted and its acreage.

C. Name and address of the recorded owner and developer.

D. Name and address of the engineer and/or land surveyor preparing the plat.

E. Existing buildings with their present use and location within the plat boundary and immediately adjacent area.

- F. Names, widths and location of all existing or proposed streets, alleys, railroads and other public right-of-way in or adjoining the proposed subdivision.
- G. Location and size, where applicable, of existing utilities within and adjacent to the subdivision boundaries.
- H. Location and names of adjoining recorded subdivisions and names or recorded owners of unsubdivided parcels immediately adjoining the proposed subdivisions.
- I. Location and character of all existing and proposed easements within the proposed subdivision.
- J. Existing contour lines at intervals not more than two (2)feet. In no case shall there be less than two contours shown.
- K. Zoning classification of the proposed and existing subdivision shall be shown.
- L. Proposed lot lines with approximate dimensions and square foot area of non-rectangular lots.
- M. Proposed lot numbers of all lots designed for use as designated in the zoning classification. All lots not meeting the requirements of the zoning classification shall have alphabetical designations. All streets, alleys and other public right-of-ways shall have alphabetical lot designations for ease of clarification and acceptance.
- N. Proposed streets shall indicate widths, centerline and centerline curve radius where applicable.
- O. Any proposed sites for schools, parks, playgrounds or other public or semi-public areas.
- P. Boundaries of the proposed subdivision shall be indicated by a heavy line with boundary dimensions and bearings.
- Q. Building setback lines shown on all lots in accordance with the zoning classification.
- R. Proposed easements for public utility purposes.
- S. Proposed utility service:
- (1) Source of water supply (City of Polk City, private utility, septic tanks, etc.)
  - (2) Sewage disposal service (City of Polk City, private utility, septic tanks, etc.)
  - (3) Provision for storm water drainage (City of Polk City, drainage district, unclassified, etc.)
- T. A vicinity map at a scale not smaller than 1 inch equals 500 feet, showing the proposed subdivision in relation to its general surroundings, including streets, subdivisions, etc.
- U. Certification of a professional engineer and/or land surveyor.

Any plat not containing all of the information specified above shall not be considered by the Commission.

4. **Accompanying Material.** Twelve copies of a general overall plan showing the approximate location of the sewer, water and storm sewer improvements that will be proposed shall accompany the plat. Any plat that cannot reasonably be served by public sewer shall provide two copies showing results of soil percolation tests made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by Polk County.

**170.29 FINAL PLAT AND ACCOMPANYING MATERIAL.**

1. **General.**

A. The final plat of the proposed subdivision is intended to serve as the record plat. The final plat shall be prepared from an accurate survey by a licensed land surveyor. Plat boundary, lot dimensions and bearings, street locations, size and bearings shall be accurately shown to scale within the tolerance established by the Code of Iowa.

B. A final plat shall not be submitted until the preliminary plat has been approved by the Council.

C. The final plat shall be submitted in substantial conformance with the approved preliminary plat.

D. Accompanying material shall not be shown on the plat drawings but as separate exhibits.

E. All accompanying material shall be deemed a part of the final plat. Any action taken of the accompanying material shall be considered the same and in effect as action on the plat.

2. **Numbers of Copies and Scale.** Twelve (12) copies of the final plat shall be submitted as designated in this Chapter for review. The scale of the plat shall be 1 inch equals 50 feet on 24 x 36-inch size sheet. Plats allowed at 1 inch equals 100 feet on the preliminary plat shall also have a scale of 1 inch equals 50 feet shown on one or more sheets.

3. **Contents of Final Plat.** All plats submitted shall contain and show on the plat drawing the following items:

A. The name under which the proposed subdivision is to be recorded, compass point, date and scale.

B. Complete legal description of the property being platted and its acreage. Legal description shall be metes and bounds. The boundary shall be accurately tied to a minimum of two section corners.

C. Reference ties to section corners found or set as reference monuments for plat.

D. Name and address of the engineer and/or land surveyor.

E. Names, widths, and location of all existing or proposed streets, alleys, railroads and other public right-of-way in the proposed subdivision.

F. Location and character of all existing and proposed easements within the proposed subdivision.

G. Sufficient data shall be shown to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as

the outer boundaries of the subdivisions. All distances shall be shown in feet to the nearest one-hundredth foot. The course of each such line shown on the plat shall be indicated by a bearing reference. All bearings and angles shown shall be given to at least the nearest minute or arc. Public streets shall show centerline and distance and bearing thereof. Curve data for control lines such as boundary lines, street centerlines, etc., shall include as a minimum radius, central angle, curve length, chord, tangent, and degree curvature. Curve data for all other lines shall include as a minimum radius, central angle, curve length and chord.

- H. Proposed lot numbers as designated on the approved preliminary plat.
- I. Any proposed sites for schools, parks, or other public or semi-public areas as shown on the approved preliminary plat.
- J. Boundaries of the proposed subdivision shall be indicated by a heavy line.
- K. All monumentation as required by Chapter 354, Code of Iowa, shall be designated on the plat and a legend provided describing the monuments and the date the monuments will be or were set.
- L. Building setback lines shown on all lots in accordance with the zoning classification.
- M. Proposed easements for public utility purposes.
- N. Certification of a professional engineer and/or land surveyor.

Any plat not containing all of the information specified above shall not be considered by the Commission.

- 4. Accompanying Material.
  - A. Twelve copies of any protective covenants of the subdivision proposed by the City or subdivider shall be submitted with the final plat for Commission consideration.
  - B. The following material shall be submitted for Council consideration:
    - (1) Seven copies of the final plat as approved by the Commission.
    - (2) Three sets of construction drawings as approved by the Commission.
    - (3) Seven copies of the protective covenants as approved by the Commission.
    - (4) A deed to the City, properly executed, for all streets and any other property intended for public use.
    - (5) 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;

(6) 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.

(7) 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.

(8) 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.

(9) A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

(10) Twelve copies of an approximate planned construction time schedule.

**170.30 PLATS OUTSIDE CORPORATE LIMITS.** The procedure for approval of plats of survey, preliminary plats and final plats of land within the Polk City Extra-territorial Jurisdiction shall be the same as set out in Section 170.28 and 170.29 above, except that seven copies of the plat shall be filed with the Clerk and the Clerk shall refer one copy to the County Engineer and one copy to the County Planning and Zoning Commission and request their recommendations to be submitted to the Commission. The Commission shall have 45 days to submit a recommendation to the Council and shall not take action on the plat prior to receiving the recommendations of the County, provided that the County shall submit its recommendations within 30 days after the referrals of the plat to the County Engineer and the County Planning and Zoning Commission.

*(Ord. 2010-2200 – Apr. 11 Supp.)*

**170.31 IMPROVEMENTS WITHIN THE POLK CITY EXTRA-TERRITORIAL JURISDICTION.**

1. Improvements in the Polk City Extra-territorial Jurisdiction shall be the same as required in Section 170.30, provided that they are not less than that required by the County subdivision policy, and provided further that all road and drainage construction plans shall be approved by the County Engineer, and completed roads shall be accepted by the Board of Supervisors for Public Maintenance. This subsection does not apply to plats of survey.

2. Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreements, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities. This subsection does not apply to plats of survey.

*(Ord. 2010-2200 – Apr. 11 Supp.)*

### **170.32 BOND REQUIREMENTS.**

1. Performance Bonds.

A. The subdivider as required in Section 170.29 of these regulations shall at the time of submittal of the final plat to the 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.; provided, however, the Council may waive the bond for sidewalks upon a determination that there is no necessity for a sidewalk bond.

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 not in any event exceed three (3) years from the date of final plat approval by the 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 recommendation to the Council.

E. All bonds shall be approved by the 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 recommendation 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 (1) 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 improvement indicating location,

dimensions, materials, and other information required by the City, that all public improvements are in accordance with approved 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 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 as required in this section shall at the time of acceptance of the improvements by the Council, post bonds in amount described herein as sufficient to secure 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. 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

D. Maintenance bonds posted by the subdivider’s contractor may be accepted.

E. Maintenance bonds shall be in the amount of the performance bonds.

**170.33 APPLICATION PROCEDURE; REVIEW AND APPROVAL.** In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat and required accompanying material in accordance with the following order and procedures:

1. Preliminary Plat.

A. The applicant shall prepare a preliminary plat in accordance with the provisions of the Zoning Ordinance and these regulations. The applicant is encouraged to contact City Hall and the City Engineer prior to submittal as described in Section 170.28.

B. Applicant shall file with the Clerk an application for Commission and Council consideration of the preliminary plat at least fourteen (14) days prior to the regular Commission meeting. Application shall be accompanied by the following:

- (1) Twelve copies of the preliminary plat.
- (2) Twelve copies of the General Improvement Plan.
- (3) Filing fee as specified in Section 170.13.

- (4) Two copies of the percolation test, if required.
- C. The Clerk shall forward three copies of the preliminary plat and the improvement layout to the City Engineer, seven copies to the Commission members, and one copy of the percolation test to the City Engineer, if applicable. The Clerk shall retain one copy of all material for the City files.
- D. The preliminary plat shall be reviewed by the Commission, City Engineer and the Building Department to determine its conformity with the Zoning Ordinance, these regulations, and all other ordinances and regulations in force affecting the subdivision.
- E. The Commission shall in its regularly scheduled meeting, but not later than forty-five (45) days after the date of the application, act upon the preliminary plat and accompanying material. The City Engineer and the Building Department shall submit to the Commission their recommendation. Applicant shall be present at the meeting. Action of the Commission shall be approval, approval subject to conditions, or denial.
- F. Should the Commission fail to act on the preliminary plat within 45 days following the date of application, provided, however, that the applicant may agree to an extension of time not to exceed an additional 45 days, the preliminary plat shall be deemed as submitted and forwarded to the City Council.
- G. In the case of approval by the Commission, the approval shall be documented on seven copies of the preliminary plat. One copy shall be returned to the subdivider, one copy shall be retained by the Commission, and five copies shall be forwarded to the City Council.
- H. In the case of approval subject to conditions by the Commission, the approval shall be documented on seven copies of the preliminary plat and the conditions determined attached thereto. One copy shall be returned to the subdivider, one copy shall be retained by the Commission, and five shall be forwarded to the City Council. The applicant shall provide revised copies of the preliminary plat in accordance with the Commission action and submit seven copies to the Clerk prior to Council action. The Clerk shall forward one copy to the City Engineer, five copies to the Council, and one copy for the Commission files.
- I. In the case of denial by the Commission, the denial shall be documented on two copies of the preliminary plat. One copy shall be returned to the applicant, one copy shall be retained by the Commission.
- J. In the case of denial or approval subject to condition by the Commission, the applicant can request in writing that the Commission forward the plat without revisions in whole or in part to the Council. Such request must state specific reasons and conditions for variation and exceptions from the Commission's recommendation. The Commission shall forward five copies of the preliminary plat and the applicant request to the Council.
- K. At the next regularly scheduled Council meeting, but in no case later than 45 days following Commission action, the Council shall act on the preliminary plat and accompanying material. The City Engineer and Building Department shall submit to the Council their recommendations. The applicant



shall be present at the meeting. Action of the Council shall be approval or denial.

L. Should the Council fail to act on the preliminary plat within 45 days following the Commission action (provided, however, that the applicant may agree to an extension of time not to exceed an additional 45 days), the preliminary plat be considered approved as submitted and the applicant may submit the final plat.

M. In the case of approval by the Council, the approval shall be documented on three copies of the preliminary plat. One copy shall be returned to the applicant. One copy shall be forwarded to the Commission, one copy shall be retained by the Council. Applicant may then prepare the final plat and accompanying material.

N. In the case of denial by the Council, the denial shall be documented on three copies of the preliminary plat. One copy shall be returned to the applicant, one copy to the Commission, and one copy shall be retained by the Council.

O. If a preliminary plat has been approved by the Commission and denied by the Council, the applicant shall revise the preliminary plat in accordance with the Council action and resubmit 12 copies to the Commission for approval as before.

P. A preliminary plat that has been denied by both the Commission and the Council may be resubmitted to the City by the applicant for Commission and Council approval with respect to the original terms of these procedures, which includes 12 copies of the preliminary plat and filing fees. Resubmittal under these terms shall be considered a new plat.

Q. The approval of the preliminary plat by the City Council shall be null and void unless the final plat is presented to the City within 180 days after the date of the said preliminary plat approval.

2. Construction of Improvements.

A. Applicant shall submit construction drawings prepared by a registered engineer. All drawings shall be submitted as a complete set on 24 x 36-inch sheets and shall include the engineering design for all streets, alleys, sanitary sewers, water mains, storm sewers, detention basins, drainage channels, and other appurtenances to the subdivision. The set shall include a title cover sheet which indicates the subdivision name, purpose of the plans, an index of contents and the engineer's certifications. The set shall also include a plan layout of the subdivision showing the relationship between all the proposed improvements, the hydrant coverages and storm water management plan with calculations. The set shall include the plans and profiles of the proposed sanitary sewers, storm sewers, water main and pavement at a scale of 1 inch equals 50 feet horizontal and 1 inch equal 5 feet vertical, with the appropriate details necessary to construct the improvements.

B. Applicant shall file with the Clerk two sets of the construction drawings. The Clerk shall forward one copy to the City Engineer. The City Engineer shall review the construction drawings in accordance with the Urban

Design Standards, Urban Standard Specifications and general engineering character.

C. A Performance Bond as specified in Section 170.32 may be required by the City Attorney prior to Council approval of the construction drawings. If required, two (2) copies of the performance bonds shall be provided to the City Clerk.

D. The City Engineer shall submit to the Council their recommendation. At the next regularly scheduled Council meeting, but in no case later than sixty (60) days following the applicant's submittal of the construction drawings, the Council shall act on the construction drawings. Action of the Council shall be approval or denial. In the case of denial, the Council shall notify the applicant of its decision and reasons therefor. Applicant shall correct construction drawings in accordance with the Council action.

E. Following Council approval and prior to commencing construction, the applicant shall submit seven copies of the construction drawings to the City Clerk. Three copies shall be forwarded to the City Engineer, one to the Public Works Department, one to the Building Department, one to the applicant and one shall be retained by the City Clerk for the City files.

F. The Construction Permit Application for water main and sanitary sewer construction must be approved by the Iowa Department of Natural Resources prior to commencing construction.

G. It is recommended that the subdivider request from the City a pre-construction conference. Such conference may include the subdivider, subdivider's engineer, subdivider's contractors, City Engineer, City Superintendent of Water, City Superintendent of Sewer and Streets and the Building Inspector.

H. Construction may commence and continue as approved by the City Engineer. Contractors shall notify the City Engineer 24 hours in advance of commencing construction. All phases of construction shall be in accordance with the Urban Standard Specifications and the approved plans, and shall be under review of the City Engineer.

3. Acceptance of Improvements.

A. Upon completion of construction, the City Engineer shall final inspect the improvements. Subdivider may request that the City accept each phase of construction (sanitary, sewer, water mains, pavements, etc.) as it is completed.

B. The subdivider shall submit the following items with the request for acceptance to the Clerk.

(1) Three (3) copies of the record drawings prepared by the subdivider's engineer in accordance with the Code of Iowa and one digital copy of said record drawings in Arc View, MicroStation, AutoCad or other approved format. Such drawings shall show the "as-built" location of all mains, services and appurtenances. Such drawings may be used by the City for future location purposes. Such drawings shall be public records and shall be made available for public review and for use of the information shown. Provided, however, the City does not warrant or guarantee the accuracy of such

drawings and nothing in this section is intended nor shall it be construed or interpreted to create any such warranty.

(2) Notification from the Clerk that all fees have been paid.

(3) Maintenance bonds in the amount specified for the improvement for the period specified in Section 170.32 to be accepted.

(4) Certification from the land surveyor that all property corner monuments are in place as indicated on the final plat.

C. The Clerk shall forward two (2) copies of the construction record drawings and one copy of the maintenance bonds to the City Engineer, and one copy of the maintenance bonds to the City Attorney for review. The Clerk shall retain one copy of each for the City files.

D. Before the Council approves the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements are in substantial conformance to all City specifications and ordinances or other City requirements and Agreements between the subdivider and the City.

E. The Council at its regularly scheduled meeting shall act upon the acceptance request. The City Engineer and the City Attorney shall submit to the Council their recommendations. The Council's action shall be approval or denial.

F. In the case of denial, the Council shall notify the applicant of its decision and the reasons therefor. Applicant shall correct any improvements in accordance with the Council action.

G. In the case of approval, the Council shall release the performance bonds corresponding to the improvements accepted.

4. Bond in Lieu of Construction.

A. The requirement of subsection 3 of this section may be waived if the subdivider will post a performance bond or certified check with the Council guaranteeing that said improvements will be constructed within a period of one year from final acceptance of plat.

B. If a performance bond or certified check is posted, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

C. If a performance bond or certified check is posted, building permits will not be issued by the Building Department to the applicant or property owners within the recorded plat without a recommendation from the City Engineer and approval of the City Administrator.

## 5. Final Plat.

A. The applicant shall prepare a final plat in substantial compliance with the approved preliminary plat and in accordance with the provisions of the Zoning Ordinance and these regulations.

B. Applicant shall file with the Clerk an application for Commission and Council consideration of the final plat at least fourteen (14) days prior to the regular Commission meeting. Application shall be accompanied by the following:

- (1) Twelve copies of the final plat.
- (2) Twelve copies of the protective covenants.
- (3) Filing fees as specified in Chapter 170.13.

C. The Clerk shall forward three copies of the final plat to the City Engineer, seven copies to the Commission members, and one copy to the Building Department for review. One copy of the protective covenants shall be delivered to the City Attorney, one to the City Engineer, seven copies to the Commission members, and one copy to the Building Department for their review. The Clerk shall retain one copy of all the material for the City files.

D. The final plat and accompanying material shall be reviewed by the Commission members, City Engineer, Building Department, and the City Attorney to determine conformity with the Zoning Ordinance, these regulations, and all other ordinances and regulations in force affecting the subdivision.

E. The Commission shall, in its regularly scheduled meeting, but not later than thirty (30) days after the date of application, act upon the final plat and accompanying material, and the Building Department shall submit to the Commission their recommendations. Applicant shall be present at the meeting. Action of the Commission shall be approval, approval subject to conditions, or denial.

F. Should the Commission fail to act on the final plat within thirty (30) days following the date of the application (provided, however, that the applicant may agree to an extension of time not to exceed an additional 30 days), the final plat shall be deemed approved as submitted and forwarded to the City Council.

G. In the case of approval by the Commission, the approval shall be documented on seven copies of the final plat. One copy shall be returned to the subdivider, one copy retained by the Commission, and five copies shall be forwarded to the City Council.

H. In the case of approval subject to conditions by the Commission, the approval shall be documented on seven copies of the final plat and the conditions determined attached thereto. One copy shall be returned to the subdivider, one copy shall be retained by the Commission, and five copies shall be forwarded to the City Council. The applicant shall make the revisions to the final plat in accordance with the Commission action and submit seven copies to the Clerk. The Clerk shall forward one copy to the

City Engineer, and five copies to the Council, and one copy shall be retained by the Commission.

I. In the case of denial by the Commission, the denial shall be documented on two copies of the final plat. One copy shall be returned to the applicant and one copy shall be retained by the Commission.

J. In the case of approval subject to condition or denial by the Commission, the applicant can request in writing that the Commission forward the plat without revisions in whole or in part to the Council. Such request must state specific reasons and conditions that exist for noncompliance with the Commission recommendations. The Commission then shall forward five copies of the final plat and the applicant's request to the Council with their recommendations and reasons for denial or conditions.

K. Seven days prior to the Council action, but not later than 30 days, the applicant shall submit to the Clerk the following:

(1) Should the final plat or protective covenants be altered or amended by the Commission, the following corresponding material shall be submitted: seven copies of the final plat as approved by the Commission and seven copies of the protective covenants approved by the Commission.

(2) Deed to the City for all property and right-of way intended for public use.

(3) A consent to plat certificate by the owner and spouse, if any.

(4) A certificate from the County Treasurer that the property is free from taxes.

(5) The attorney's opinion or district court certificate that the property is without encumbrances.

(6) Signed contract for installation of street lights.

L. The Clerk shall forward a copy of the deeds, consent to plat, County Treasurer's certificate, attorney's opinion or court certification, and performance bonds to the City Attorney. One copy of the performance bonds shall be forwarded to the City Engineer. In addition, one copy of the amended final plat and/or protection covenants, if applicable, shall be forwarded to the City Engineer and the Commission, with the remaining copies forwarded to the Council.

M. Should the applicant fail to submit the accompanying material within 60 days following Commission action (provided, however, the Commission shall agree to an extension of time not to exceed an additional 60 days), the Commission action shall be considered null and void.

N. At the next regularly scheduled Council meeting, but in no case later than 30 days following applicant's submittal of accompanying material, the Council shall act on the final plat and accompanying material. The City Engineer, the City Attorney, and the Building Department shall submit to the Council their recommendation. Applicant shall be present at the meeting. Action of the Council shall be approval or denial.

- O. Should the Council fail to act on the final plat within 30 days after receipt of accompanying materials, the final plat shall be deemed approved as submitted and the applicant may record the plat.
- P. In the case of approval by the Council, the approval shall be documented on three copies of the final plat. One copy shall be returned to the applicant. One copy shall be forwarded to the Commission, and one copy shall be retained by the Council. Applicant shall then record the plat as required in these regulations.
- Q. In the case of denial by the Council, the denial shall be documented on three copies of the final plat. One copy shall be returned to the applicant, one to the Commission, and one shall be retained by the Council.
- R. If a final plat has been approved by the Commission and denied by the Council, the applicant shall revise the final plat in accordance with the Council action and resubmit twelve copies to the Commission for approval as before.
- S. A final plat that has been denied by both the Commission and the Council may be resubmitted to the City by the applicant for Commission and Council approval with respect to the original terms of these procedures, which includes twelve copies of the final plat, accompanying material, and filing fees. Resubmitting under these terms shall be considered submittal of a new plat.
6. Recording of Plat and Building Permits.
- A. Upon Council approval of the final plat, the City shall present to the applicant a statement of approval to be presented to the Polk County Recorder for applicant's recording of the plat.
- B. Applicant shall submit to the Clerk a certificate of recording from the County Recorder's office. Approval of the final plat by the Council shall be null and void unless the plat is filed in the office of the Polk County Recorder within 180 days of the date of said final plat approval.
- C. Following the submittal of certification of recording to the City, the applicant or property owners within the recorded plat may make application to the Building Department for the building permits, in accordance with that department's regulations. Occupancy permits will not be issued until all procedures have been completed and the public improvements have been accepted.
7. Plats of Survey.
- A. No plats of survey for any land within the jurisdiction of the City shall be recorded in the County Recorder's office or have any validity until the Council has adopted a resolution approving and releasing the plat of survey for recordation.
- B. Parcels previously platted as single-family lots in a subdivision of similarly sized lots will not be allowed to be further subdivided into flag lots having less than the minimum lot width in accordance with the applicable zoning district regulations unless specifically approved by the Commission.

C. Any person, firm or entity, proposing the division or subdivision by means of a plat of survey of any land into two (2) parts or the creation of a new lot or parcel within the jurisdiction of the City, including any area outside of the City's boundaries specified in Section 170.05, shall submit an application to the City Clerk at least 14 days prior to the regular Commission meeting. Subdivision of any land into three or more parts shall constitute a Plat of Subdivision in accordance with the requirements of this chapter.

D. The City Engineer shall review the plat of survey for compliance with City Code requirements and land use plan and report to the Commission.

E. The Commission shall in its regularly scheduled meeting but not later than 45 days after the date of application, act upon the plat of survey. At the next regularly scheduled Council meeting, but in no case later than 30 days following Commission action, the Council shall act on the plat of survey. Action of Council shall be approval or denial.

F. Filing fee as specified in Chapter 170.13.

**170.34 MAINTENANCE OF IMPROVEMENTS.** The improvements accepted shall be generally maintained by the City as to cleaning, snow removal, and general maintenance by the City as to the City's policies toward public utilities and right-of-ways. The City shall review the improvement facilities through the life of the maintenance bonds with regard to stability of material and workmanship. During the life of the bond, should corrective construction or reconstruction be required in the opinion of the City Engineer, the City shall notify the principal of the bond as to the deficiencies that have occurred. Principal shall, within a reasonable time, repair or replace the defective portion of the improvements involved at no cost to the City, under the terms of the bond.

**170.35 INSTALLATION OF STREET SIGNS AND OTHER DEVICES.** The developer shall be responsible for the installation of all street signs, stop signs and other directional signs within the subdivision. These signs shall be constructed in accordance with the specifications of the City. They should be installed as directed by the Public Works Director.

**170.36 GRADING AND EROSION CONTROL.**

1. Definitions. For the purpose of this section, the following words and phrases are defined:

A. "Accelerated soil erosion" means the rate of soil loss per year leaving the site prohibited by the Polk Soil Conservation District, pursuant to Section 161A.44 of the Code of Iowa.

B. "Applicant" means (a) an owner or developer of land proposed to be graded or said owner or developer's representative. Where application is made by the developer, consent shall be required from the legal owner of the premises; and (b) any public or private utility company which intends to install utility services in trenches which exceed one foot in width.

C. "As graded" means the surface condition after completion of grading.

D. "Bench" means a relatively level step or berm excavated into, or constructed of earthen material, on a slope on which fill is to be placed.

- E. “Borrow” means earth material acquired from an off-site location and used in grading of a site.
- F. “Building Official” means the Building Official as designated by the Council. Said official is responsible for the administration of this chapter and shall issue all permits required herein.
- G. “Certificate of completion” means a signed, written statement by a registered engineer that specific construction has been inspected and found to comply with all grading plans and specifications.
- H. “City Engineer” means the City Engineer as designated by the City Council.
- I. “Compaction” means the densification of fill or disturbed surface by mechanical means.
- J. “Disturbed area” means an area of ground on which the existing vegetation has been removed or damaged so as to be likely to cause soil erosion.
- K. “Earth change” means a manmade change in the natural cover or topography of land, including cut and fill activities.
- L. “Erosion” means the process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.
- M. “Excavation” or “cut” means any act by which soil, rock, or rubble is cut into, dug, quarried, uncovered, removed, displaced or relocated. Also included are the conditions resulting therefrom.
- N. “Fill” means any act by which soil, rock or rubble is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location and includes the conditions resulting therefrom.
- O. “Grading” means any stripping, excavation, filling, stock-piling, or any combination thereof, of soil, which shall also refer to the land in its excavated or filled condition.
- P. “Key” means a designed, compacted fill placed in a trench excavated in existing earthen material beneath the top of a proposed fill slope.
- Q. “Land use” means a use of land which may result in an earthen change, including but not limited to, subdivision, residential, commercial, industrial, recreational or other development, private and public highway, road and street construction, drainage construction, or agricultural practices.
- R. “Natural drainageway” means an existing ditch in as natural a condition as possible and which can be maintained as such.
- S. “Permanent soil erosion control measures” means those control measures which are installed or constructed to control such erosion and which are maintained after completion of the project.
- T. “Person” means any person, firm or corporation, public or private, the State of Iowa and its agencies or political subdivisions, the United States of America, its agencies and instrumentalities, and any agent, servant, officer or employee of any of the foregoing.



U. “Registered professional” means any person who by education, training or experience, has been recognized by any professional accreditation board within the State of Iowa as being qualified in the performance of professional services such as consultations, investigations, research, planning, design or responsible supervision in connection with projects involving the arrangement of land and the elements thereon for public and private use and enjoyment, including, but not limited to, landscape architects, architects and engineers.

V. “Sediment” means settled-out soil particles which have been transported by water and later deposited.

W. “Site” means any lot or parcel of land or contiguous combination thereof, under the same ownership or control, where grading is to be performed or permitted.

X. “Slope” means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

Y. “Soil” means naturally occurring superficial deposits overlying bed rock.

Z. “Stripping” means any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

AA. “Structures” means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, “structures” include buildings, sited mobile homes, billboards, poster panels and retaining walls.

BB. “Temporary soil erosion control measures” means interim control of soil erosion until permanent soil erosion control is effected.

CC. “Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

DD. “Time scheduling” means an itemized sequential listing of events concerning stripping, grading and erosion control measures which are to be pursued according to the approved schedule.

2. Plans and Permit.

A. Before land is graded for purposes including, but not limited to, the construction of buildings, the mining of minerals including sand and gravel, the construction of parks and golf courses, the construction of subdivisions for any use, and the construction of streets and alleys by any person, said person, prior to initiating grading, shall obtain from the Building Official a grading permit, where the proposed development comes under any one or more of the following provisions:

- (1) Excavation, fill or any combination thereof, which exceeds 100 cubic yards in volume.
- (2) Fill that exceeds 3 feet in vertical depth at its deepest point measured from the natural ground surface.

- (3) Excavation which exceeds 4 feet in vertical depth at its deepest point.
  - (4) Grading which creates a disturbed surface area of more than 20,000 square feet.
  - (5) Grading which creates a disturbed surface area of 5,000 square feet or more located within 100 feet of a lake, pond, river, stream or natural drainage way.
- B. A grading permit shall not be required in the following cases:
- (1) Excavation below finished grade for septic tanks, drain fields, tanks, tunnels, swimming pools, cellars, or footings and basements of building or structures for which a building permit has been issued by the City, unless part of a development which would otherwise require such a permit.
  - (2) Cemetery graves.
  - (3) Refuse disposal sites controlled by other regulations.
  - (4) Excavation for wells.
  - (5) Exploratory excavations for soil testing purposes conducted under the direction of a registered professional.
  - (6) Where, prior to formal application, the applicant receives from the Building Official a written statement that the planned work or final structures or topographical changes, as presented by the applicant to the Building Official prior to formal application, will not result in or contribute to accelerated soil erosion or sedimentation and will not significantly interfere with any existing drainage course, or create any additional hazards.
- C. For new subdivisions, the subdivider or land owner shall obtain the required grading permit prior to beginning grading operations. Prior to the acceptance of the final plat by the Planning and Zoning Commission and the Council, the applicant shall:
- (1) Complete all grading and soil erosion measures as stipulated in the grading permit and submit, along with all other required documents, a certification from the Building Official that said work has been satisfactorily completed in compliance herewith, or
  - (2) Obtain a grading permit and post a satisfactory performance bond in an amount equal to 100% of the estimated cost of the grading and erosion control work, which shall guarantee the faithful performance of this work in accordance with the requirements contained herein.
- D. No certificate of occupancy for any building located on a site requiring a grading permit shall be issued by the Building Official until such time as all grading and erosion control measures, as required herein, are satisfactorily completed. In the event the approved grading plan permits permanent erosion control measures to be constructed subsequent to the completion of building structures, a temporary certificate of occupancy may be issued for each structure, provided that the term of such temporary

certificate of occupancy shall not exceed one year, during which time the applicant shall have completed the construction of such permanent erosion control measures and a certification of compliance therefor shall be issued by the Building Official.

E. No grading permit shall be issued until the owner of the parcel on which the grading is to occur submits a grading plan, together with other submissions required in this section, and a certificate that any grading done will be in compliance with said plan and submissions. All grading plans requiring submissions shall be certified by a registered professional engineer.

F. Each application for a grading permit shall be made by the owner of the property or the owners authorized agent to the Building Official on a form furnished for that purpose. Each application shall be accompanied by the following unless the Building Official finds any item unnecessary to ensure compliance with the provisions of this section:

- (1) A site sketch showing its size and boundaries, types of proposed sewer and water facilities, location of existing utilities, buildings and drains on and/or within 300 feet of the site. Include legend and scale; show all areas to be deeded, sodded, mulched, paved or left undisturbed after the work.
- (2) A soil map of the property showing the predominant soil types on the site.
- (3) Information on those areas abutting or adjacent to the site sufficient to show existing drainage patterns and any drainage courses that may be affected by the site development.
- (4) Name and address of the developer and owner.
- (5) Name and address of person preparing application.
- (6) Natural flood plain limits, if any.
- (7) A plan showing the existing topography of the site and 200 foot adjacent peripheral strip, proposed contours and final grades and street profile.
- (8) An indication as to what measures will be employed to protect cut and fill slopes and other soil from erosion.
- (9) A plan showing how all storm water drainage will be handled on and near the site.
- (10) An estimate as to the scheduling and phasing of the grading work.
- (11) A soils and engineering report on the soils at the site for purposes of determining the adequacy of the soils for their intended uses.

### 3. General Review Procedures.

A. An application for a grading permit shall be prepared by a registered professional experienced in grading, soil erosion and sedimentation control methods and all techniques and shall comply with the requirements of this Code. A separate application shall be required for each grading permit. No

such grading permit shall be issued until the application therefor has been approved by the Building Official and City Engineer.

B. Within thirty (30) days after receiving the application for grading permit the Building Official shall take action to either approve, approve subject to conditions, or disapprove the application subject to approval by the City Engineer. Failure by the Building Official to act within the time specified herein shall be deemed to be a grant of approval of the application as submitted, provided that the application as submitted does not conflict with any existing ordinance, statute, rule or law affecting the subject property.

C. The Building Official shall promptly notify the applicant in writing of the action taken. If the application is approved, the Building Official shall cause written verification of approval to be affixed on the application along with the date of approval. In the case of disapproval, or approval subject to conditions, the Building Official shall indicate the reasons therefor and shall return a copy to the applicant for revision in accordance with the action taken. The applicant shall then submit the revised application for review by the Building Official in accordance with the procedures set forth above.

D. Grading permits shall not be issued where:

(1) In the opinion of the Building Official and/or City Engineer, the proposed work would cause hazards to the public health, safety or welfare; or

(2) The proposed work fails to conform to the standards set forth herein.

E. In the event the Building Official has denied or conditionally approved an application for a grading permit, the applicant may, upon notice to the Commission, appeal in whole or in part any determination or action of the Building Official made within the scope of this section. Appeal shall be made without cost by providing written notification of the appeal to the Building Official and City Engineer within thirty (30) days after the date of the action from which appeal is brought.

F. The Commission shall decide all appeals within thirty (30) days after written notification of the appeal has been received by the Building Official. Failure to decide the appeal within such period shall have the effect of supporting the Building Official's action and denying the application as appealed. Except as above provided, the affirmative vote of at least three-fourths of the Commission members shall be necessary to overturn or modify the action from which appeal is sought. At the Commission meeting, the appealing party or parties shall be presented a reasonable opportunity to present their views. Decisions of the Commission may be appealed to the Council in the same manner as appeals from the action of the Building Official. A majority vote of the Council shall be necessary to overturn or modify the action of the Commission.

G. A grading application that has been denied by the Building Official, the Commission, or the Council may be resubmitted by the applicant to the Building Official pursuant to the terms of this section, upon payment of appropriate fees.

4. Permit Conditions.
  - A. The Building Official shall have the authority to stipulate any special conditions of the permit that may be required to ensure compliance with this section or as may be needed due to special site problems.
  - B. All permits shall be void unless grading is initiated within one year from the date the permit is issued.
  - C. No liability shall be attached to the City or its officials due to the approval or denial of a permit.
  - D. Upon completion of site grading, the applicant shall submit to the Building Official and City Engineer a certification from a registered professional engineer that said work was completed in accordance with the grading permit issued.
  - E. No material change will be made in the plans submitted without prior written approval of the Building Official.
5. Bond. Prior to the issuance of a grading permit by the Building Official, the applicant shall furnish a corporate surety bond in an amount deemed necessary by the Building Official and City Engineer to ensure that the work will be completed in compliance with the permit issued and to protect and hold the City harmless against carelessness and neglect on behalf of the applicant, the applicant's agents or contractors.
6. Fees. At the time of filing an application for a grading permit, a non-refundable application fee according to a schedule adopted from time to time by resolution of the Council shall be paid. An additional non-refundable fee according to a schedule adopted from time to time by resolution of the Council will be charged for plan review and site inspection at the time the grading permit is issued.
7. Responsibility of Applicant. During grading operations the applicant shall be responsible for:
  - A. The prevention of damage to any public utilities or services within the limits of grading and along any routes of travel of the equipment.
  - B. The prevention of damage of adjacent property.
  - C. Carrying out the proposed work so as not to grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any other public or private property without supporting and protecting such property from settling, cracking or other damage which might result.
  - D. Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of this section.
  - E. The prompt removal of excessive soil, miscellaneous debris or other materials, applied, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfares during transit to and from the construction site.
  - F. Completing the grading operation and the erosion control measures within the time schedule stipulated in the grading permit application.
  - G. Conducting any earth changes in such a manner as to effectively reduce accelerated soil erosion and resulting sedimentation.

- H. Designing, implementing and maintaining acceptable soil erosion and sedimentation control measures, in conformance with the Soil Conservation Districts Law, also known as Chapter 161A of the Code of Iowa, and adopted rules of the Polk Soil Conservation District as they pertain to erosion control and which effectively reduce accelerated soil erosion.
- I. Designing, constructing and completing all earth changes in such manner that the exposed area of any disturbed land shall remain exposed for the shortest possible period of time.
8. Maintenance Requirements. The applicant shall be responsible for properly carrying out all soil and sedimentation control measures under this section in accordance with the approved grading plan. The applicant and all subsequent owners of property as to which such measures have been taken shall maintain all permanent erosion control measures, retaining walls, structures and other protective devices.
9. Minimum Design Standards For Erosion and Sediment Control.
- A. All grading plans and specifications, including extensions of previously approved plans, shall include provisions for erosion and sediment control in accordance with but not limited to the standards contained in the Iowa Guidelines for Soil and Water Conservation in Urban Areas published by the Department of Agriculture and Land Stewardship. Copies of said standards shall be available for inspection in the office of the Building Official.
- B. Sediment caused by accelerated soil erosion shall be removed from run off water before it leaves the development site.
- C. Any temporary or permanent facility designed and constructed for the conveyance of water around, within, through or from the development site shall be designed to limit the water flow to a non-erosive velocity.
- D. Temporary soil erosion control facilities shall be removed and disturbed areas graded and stabilized with permanent soil erosion control measures, all pursuant to the stipulated time schedule and to approved standards and specifications as prescribed by the Iowa Guidelines for Soil and Water Conservation in Urban Areas and in accordance with the Urban Design Standards and Urban Standard Specifications.
- E. Unless the approved plan designates temporary construction erosion control measures prior to any initial grading, permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area shall be completed within 15 workable days after final grading or the final earth change has been completed.
10. Minimum Design Standards for Grading.
- A. Prior to any grading, the applicant shall locate all utility lines that exist on the property. All utility lines are to be protected from damage during construction. If the grading involves utility line relocation, said work shall be done under the supervision of the appropriate utility company.
- B. No cut or fill shall be made within an easement area for streets, sewers or other utilities unless approved, in writing by the person holding said easement.

C. In general, all grading operations shall be conducted in such a manner that accelerated soil erosion shall not occur. Upon completion of final grading, permanent soil erosion control features will be utilized which will also eliminate accelerated soil erosion. Methods to be used include, but are not limited to: seeding, sodding, mulching, terraces, grade stabilization structures, grassed waterways, sediment basins, and storm drain outlet protection. All temporary and permanent facilities are to be designed in accordance with the standards set forth in the Guidelines for Soil and Water Conservation in Urbanizing Areas, published by the Iowa Department of Agriculture and Land Stewardship.

D. The slope of cut and all surfaces shall not be steeper than is safe for their intended uses. They shall be no steeper than two horizontal to one vertical.

E. All fills shall be compacted to a minimum of 90% maximum standard density. For fills made to support structures, the density will be as specified in the Uniform Building Code or Soils Engineering Report.

F. All cuts and fills shall be setback for all property lines and structures in accordance with the following minimum criteria. These are minimum setbacks and may be increase by the Building Official, if necessary.

<b>Fills:</b>	<b>Minimum Setback From Property Line</b>	<b>Minimum Setback From Face of Structure</b>
Less than 5-foot heights	5 feet	1/2 fill height
5 to 30-foot height	5 feet + 1/2 fill height	1/2 fill height
Greater than 30-foot height	20 feet	1/2 fill height 20-foot max.
<b>Cuts:</b>		
Less than 5-foot height	7 feet	1/2 cut height
5 to 30-foot height	6 feet + 1/5 fill height	
Greater than 30-foot height	12 feet	15 feet

G. No fill shall be placed in a channel or on the flood plain of a river or stream draining two square miles or more without the approval of the Iowa Department of Natural Resources. For streams draining less than two square miles, the following shall apply:

- (1) No fill shall be placed in the channel of a drainageway unless another channel width is placed on either side thereof.
- (2) No fill shall be placed on the flood plain of a drainageway within an area defined as containing the channel plus one channel width on each side thereof.

H. For individual building lots within subdivisions, the following shall apply: The land surrounding all buildings shall be graded such that water, including that from sump pump discharges, will drain away from the structures to a natural or manmade waterway.

11. Inspections.

A. All grading operations for which a permit is required shall be subject to inspection by the Building Official. When required by the Building

Official as a result of inspections, or when so stipulated in the grading permit, the permittee shall undertake all required engineering test, the results of which will be forwarded to the Building Official by a registered professional.

B. None of the requirements of paragraph A shall relieve the permittee from the responsibility of retaining the services of a registered professional for inspection purposes during construction. Said professional shall be the liaison between the Building Official and the permittee, and shall be responsible for carrying out the technical inspection and testing requirements of the grading permit.

C. If, in the course of fulfilling their responsibility under this ordinance, the registered professional or authorized testing agency finds that the work is not being done in conformance with the grading permit, the discrepancies shall be reported immediately, in writing, to the permittee and Building Official. In the event that the Building Official finds discrepancies, said written notice shall be given to the registered professional and permittee. Once discovered, the permittee shall immediately take whatever action is necessary to effectively correct the deficiencies.

12. Revocation of Permits.

A. If, after issuance of a grading permit, it becomes apparent to the Building Official that the work is not being done in conformance with said permit, the Building Official shall give written notice of the discrepancies to the permittee. The permittee shall be responsible for undertaking any necessary corrective actions within the time limit so specified in the notice from the Building Official.

B. If the permittee fails to undertake the corrective actions necessary within the specified time period, the Building Official has the authority to issue a written notice revoking said permit and thus requiring further work on the project to cease.

13. Notification of Completion.

A. Upon completion of the work covered by the grading permit, the permittee's registered professional shall submit a certification that the work was accomplished in accordance with the grading permit.

B. In the event that minor modifications in the plans are necessary as construction progresses, certified "as-graded" plans will also be submitted upon completion of the work.

14. Special Hazards.

A. Whenever the Building Official determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, endangers property, or adversely affects the safety, use or stability or a public way or drainage channel, the owner of the property upon which the excavation of fill is located, or other person or agent in control of said property, upon receipt of a notice in writing from the Building Official, shall within the time period specified therein repair or eliminate such excavation, embankment or fill so as to eliminate the hazard and be in conformance with this section. In the event that the necessary corrective



action is not taken within the time period specified, each day is considered a separate violation.

15. The permittee shall submit three copies of the record drawings prepared by the permittee's engineer in accordance with the Code of Iowa and one digital copy of said drawings in Arc View, MicroStation, AutoCad or other approved format. Such drawings shall show the "as-built" grading and shall include spot elevations along the flowline of drainage swales and ditches at each property line along with a note on the as-built drawings stating the drainage ditches and/or swales were constructed to the designed depth and width and that said ditches and/or swales are located within the overland flowage easements shown on the Final Plat. Such drawings shall be public record and shall be made available for public review and use of the information shown. Provided, however, the City does not warrant or guarantee the accuracy of such drawings and nothing in this section is intended nor shall it be construed or interpreted to create any such warranty.

*(Ord. 2010-2000 – Apr. 11 Supp.)*

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## CHAPTER 171

# MASTER PLAN REGULATIONS

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**171.01 PURPOSE.** The purpose of this chapter is to promote and encourage development or redevelopment of tracts of land on a planned, unified basis by allowing greater flexibility and diversification than is normally permitted by conventional single lot development in zoning districts, because of the substantial public advantages of planned development. Although Planned Unit Developments (PUDs), including Mobile Home Parks, may appear to deviate in certain respects from a literal interpretation of the Comprehensive Plan, regulations adapted to such unified planning and development are intended both to accomplish the purposes of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are designed to control unscheduled development on individual lots, and to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious variety, creative design, and a better living environment.

**171.02 WHERE PERMITTED.** Planned Unit Developments shall be permitted on any ten (10) acre or larger tract of land, or contiguous tracts of land, that has been zoned or rezoned for PUD purposes by the City Council. Said PUDs may consist of residential, commercial, public, semi-public land, conservancy land, and/or any combinations of land uses thereof. Mobile Home Parks are permitted only on any twenty (20) acre or larger tract of land that has been zoned or rezoned for mobile home park purposes by the City Council. Said mobile home park shall consist of mobile home spaces and accessory structures including a required storm shelter. A Master Plan shall be submitted by the applicant in conjunction with any petition requesting rezoning of a parcel or parcels of land to either Planned Unit Development District (PUD) or R-4 Mobile Home Residential District (R-4). However, the Master Plan for such PUD or mobile home park shall not become effective until the appropriate zoning, either PUD or R-4, has been approved by City Council.

**171.03 PRE-APPLICATION CONFERENCE.** In order to eliminate unnecessary expenditures of time and money, the developer shall first schedule a pre-application conference with the City Administrator, who shall involve the City Engineer and representatives of other departments as deemed appropriate. The City Administrator may require submittal of a generalized sketch plan providing such information as follows:

1. Location and size of the overall site, and of the individual types of development or uses proposed within the site.
2. Existing topography, indicating slopes, major earth-work areas, drainage courses, embankment stability, soil suitability, runoff on considerations, floodplains, and any problem areas.
3. Existing tree masses and other geological and environmentally important characteristics.

4. Generalized vehicular and pedestrian systems and parking areas.
5. Generalized building locations.
6. Approximate gross density, and number and types of dwelling units, in accordance with the Comprehensive Plan; approximate gross floor areas of commercial and industrial land uses.
7. Generalized storm water management plan for drainage and detention, including embankment protection and erosion controls.
8. Generalized utility line considerations with sanitary sewer capacity limitations so noted.
9. Generalized public and private ownership boundaries, including common ownership areas, if any.
10. Generalized building locations for small PUD proposals.
11. Proposed development schedule and phasing plan.

The City staff shall have fifteen (15) days in which to review and comment on the pre-application sketch plan. Following staff review, the developer may request an informal consideration of the proposal by the Planning and Zoning Commission. Said consideration shall be non-binding on either party.

#### **171.04 APPLICATION FOR REZONING.**

1. Following the pre-application conference the applicant shall submit a petition for rezoning to PUD or R-4 in accordance with standard City procedures for rezoning, accompanied by a Master Plan, Development Agreement and related documents containing the information required by this chapter and required fees.
2. The petition, Master Plan and Development Agreement shall be referred to the Planning and Zoning Commission for study and report and for public hearing if required for rezoning by the Commission. The Commission shall review the master plan for conformity to the standards of this chapter, and may approve the plan as submitted; require the petitioner to modify, alter, adjust, or amend the plan as deemed necessary to preserve the intent and purpose of this chapter to promote public health, safety, and general welfare; or recommend that it be denied. The action of the Planning and Zoning Commission shall be reported to the City Council, where upon the Council may approve or disapprove the petition and master plan as reported or may require such changes thereto as deemed necessary to effectuate the intent and purpose of this chapter.
3. The City staff shall schedule all required public hearings as soon as possible after all required information has been submitted. The Planning and Zoning Commission shall report their findings to the City Council in a timely manner. In the event they fail to take action within sixty (60) days after the date of public hearing, the petitioner or anyone located within the notification area as defined for rezoning may request in writing that the Commission complete their considerations. The Commission shall then take action within the next thirty (30) days and report their findings to the Council for consideration by the Council, unless the Council expressly grants the Commission additional time to complete negotiations, studies, or other items necessary.

**171.05 DEVELOPMENT CONTROLS.** Although PUD's are intended to promote and permit flexibility of design and thereby may involve modifications of conventional regulations or standards, certain requirements which are set forth below shall be applied to ensure that the development is compatible with the intent of this chapter. Mobile home parks are intended to be developed in a consistent manner.

1. Any use that is approved and made a part of the Master Plan, subject to any conditions attached thereto, shall be permitted.
2. Height, setback, bulk, and other requirements set out in the master plan shall constitute the basis for and become the zoning requirement for that particular PUD, provided that refinements may be made through Preliminary Plat and/or Site Plan approval if not defined as a substantial modification; in lack of any special provisions set out in the Master Plan, the requirements of the most proximate zoning district, as defined by use, shall be applied.
3. Project phases shall be substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, required open space, screening and transitional elements and other support features, and be capable of supporting required operation and maintenance activities; temporary provisions, such as turnarounds or access easements, may be required for this purpose; the initial phases generally should include development of common amenities and should provide a feasible means of developing the property in terms of access, sewer service, or similar physical constraints;
4. The combination of adjoining tracts of land into one cohesive Planned Unit Development shall be encouraged. Where such adjoining tracts of land are not under the same ownership, the owners of all property within the PUD shall sign the Development Agreement indicating concurrence with the requirements of the Master Plan and rezoning Ordinance.
5. Attention shall be given to mitigation of existing or potential land use conflicts through proper orientation, open space setbacks, landscaping and screening, grading, traffic circulation, and architectural compatibility. It is the intent of this chapter to recognize that appropriate use of design techniques will provide the required mitigation, and thereby eliminate the need for certain conventional regulations or standards. As examples and not requirements: provision of landscaped parks and open space to mitigate densities, orienting views, access, and principal activities away from the land use needing protection, placing those least compatible activities farthest from the common boundary and those most compatible nearest, can create an effective buffer; setbacks in conjunction with landscaping can mitigate conflicts by providing a visual buffer, controlling pedestrian access, softening visual contrast by subduing the differences in architecture and bulk, and reducing heat, and dense landscaping can reduce the width of physical separation needed for such purposes; proper grading will control drainage, can alter views and subdue sound, and channel access; fences, walls, and berms will channel access and control visual, sound, and light pollution; proper architectural use of color, bulk, materials, and shape will enhance compatibility and reduce contrast, although details added to the building for aesthetic purposes without consideration to form and surroundings may be detrimental rather than helpful; and proper design of pedestrian ways, streets and points of access and proper location of parking areas, will reduce congestion and safety hazards, and help prevent introduction of noise, pollutants and other conflicts into areas with less intensive land use. Other techniques may also be used.

6. Permanent care and maintenance of open space, recreation amenities and other common elements shall be provided in a legally binding Development Agreement.
7. Except where the City agrees to other arrangements, a PUD shall be comprised of a single owner, or a group of owners acting as a partnership or corporation with each agreeing in advance to be bound by the conditions which will be effective in the PUD.

**171.06 MASTER PLAN AND DEVELOPMENT AGREEMENT.** The following information, plans and maps shall be submitted as part of the application for a Planned Unit Development or Mobile Home Park.

1. Names, addresses, and telephone numbers of owners, developer, and designer; name of development, date, north point, and scale.
2. Legal description of the property, and map of the boundary of the proposed PUD as well as interior boundaries of proposed development phases, and of any existing separate ownerships.
3. Sufficient information on adjacent properties to indicate relationships to the proposed development, including such information as land divisions, land use, pedestrian and vehicular circulation, significant natural features or physical improvements, and drainage pattern.
4. Existing site conditions including contours at intervals sufficient to indicate topographic conditions (generally two feet), drainage ways and 100 year flood plains, floodways, heavy woods or other significant natural areas, and existing structures.
5. General locations of proposed lots and attached residential, multiple family, commercial, and industrial structures, and recreation facilities; further delineating areas with different uses or building types, and gross density per acre.
6. General location and size of areas to be dedicated or reserved for common open space, parks, landscaping areas, schools, recreation area, and similar uses, and how any private facilities are proposed to be maintained.
7. Existing and proposed general circulation systems, including streets, pedestrian ways, recreation trails, major off-street parking and loading areas, and major points of access.
8. Existing and proposed general sanitary sewer collection systems, water main distribution systems, and storm water management plan including storm sewers, drainage ways, and detention facilities. All utilities, including franchise utilities, shall be underground.
9. Proposed development standards, including uses, density, floor area ratios for nonresidential developments, lot areas and widths, setbacks, and exceptions or variances from general requirements of zoning and other ordinances.
10. Sewer usage computations in accordance with the criteria of the sewer district.
11. Treatment of transitional zones around the perimeter of the project for protection of adjoining properties, including setbacks and buffer areas, landscaping, fences or other screening, height limitations, or other provisions.

12. A narrative or graphic explanation of the planning and design concepts and objectives the owner intends to follow in implementing the proposed development, including a description of the character of the proposed development; the rationale behind the assumptions and choices made; the compatibility with the surrounding area; and design considerations for architecture, engineering, landscaping, open space, and so forth.
13. A statement of intent with regard to selling or leasing all or portions of the proposed development.
14. Proposed energy conservation methods, such as siting or design of structures.
15. Proposed phasing timetable including a phasing plan indicating the limits of each phase of development along with buffers for each phase where appropriate.
16. A Development Agreement shall be signed by the property owner(s) and the applicant if the applicant does not own all of the property within the PUD or Mobile Home Park. This agreement shall reference the Master Plan drawings and shall include narrative information as deemed necessary regarding specific development provisions and densities, such information may also be incorporated into the Ordinance rezoning the property.
17. The City Administrator may require any additional information which may be needed to evaluate the proposed development on the basis of special or unforeseen circumstances, or may waive any of the above requirements if it is found that such information is unnecessary to properly evaluate the proposed development.
18. The Master Plan and Development Agreement shall be binding on the petitioner and any and all successors in title so long as PUD or R-4 zoning applies to the land, unless amended in accordance with the procedures set forth. The Development Agreement and the ordinance for rezoning may include a sunset clause such that the zoning of the land or a portion of the land may revert to the original zoning should development not occur within a specified time frame if such sunset clause is deemed necessary by City Council.

The above information should be shown in a clear and logical manner in a legible scale. Sheet size should not exceed 24" x 36". Generally, existing conditions should be illustrated on a separate sheet for sake of clarity, although existing topography, access, utility and sewer lines and other items that are appropriate for understanding the proposal should also appear on the proposed development plan. It is strongly recommended that an architect, landscape architect, and civil engineer be employed to prepare the plans.

#### **171.07 ADDITIONAL REQUIREMENTS FOR MOBILE HOME PARKS.**

1. In addition to the Master Plan and Development Agreement requirements specified above, the applicant for a mobile home park development shall include the following:
  - A. Individual mobile home spaces of appropriate dimension shown and numbered.
  - B. All buildings, other than garages and other buildings accessory to individual mobile home spaces, including their proposed height, size, use, and exterior design.
  - C. Landscaping and plant materials, including species and size at time of installation and maturity.

- D. Walls and fences.
  - E. Lighting facilities for streets and common areas and buildings, including fixture type and illumination.
  - F. Solid Waste receptacles.
  - G. Central television antennas.
2. Design Standards.
- A. No mobile home park or any initial stage thereof shall contain less than fifty (50) mobile home spaces.
  - B. Not less than eight percent (8%) of the gross area of every mobile home park shall be developed as recreation areas easily accessible to all park residents. Recreation areas may include, but are not limited to, such facilities as recreation buildings, adult recreation areas, child play areas and swimming pools. Only unpaved, unenclosed areas may be considered toward the open space requirement as specified in Section 165.06.
  - C. Off-Street Parking: In addition to the provisions of Section 165.16, two (2) parking spaces for each mobile home space.
  - D. Streets.
    - (1) All streets within the mobile home park shall be privately owned and maintained.
    - (2) If turning lanes or other forms of traffic controls at the entrances and exits to and from the mobile home park are deemed necessary by the Council, the developer shall provide the necessary public improvements.
    - (3) Entrance streets shall be not less than thirty-five (35) feet wide. Interior streets shall not be less than twenty-five (25) feet wide.
    - (4) Every dead-end street shall be provided with a cul-de-sac with not less than an 84-foot turning diameter.
    - (5) All streets shall be paved with asphalt or portland cement concrete and constructed with a continuous concrete curb and gutter to provide for drainage.
    - (6) The location and design of all intersections of access streets with public streets shall be approved by the City Engineer.
  - E. Utilities. All water mains, sanitary sewers and storm sewers within the mobile home park shall be privately owned and maintained unless otherwise approved by City Council. All such utilities, whether public or private, shall be constructed in accordance with the City's standard specifications and the construction of same shall be inspected by the City Engineer.
  - F. Walks.
    - (1) Common sidewalks shall be provided along all entrance streets and in areas of high pedestrian traffic, such as in the vicinity of community buildings and recreation facilities. The sidewalks shall be



at least four (4) feet wide and of asphaltic or portland cement binder pavement.

(2) Individual walks shall be provided to connect all mobile home stands to common sidewalks, to paved streets, or to paved driveways or parking spaces connected to a paved street. Such individual walks shall be at least two (2) feet wide and of asphaltic or portland cement binder pavement.

G. Lighting. The park street system shall be furnished with lighting units so placed and equipped to provide the following average minimum maintained levels of illumination:

(1) Upon all parts of the park street system: 0.2 foot-candles.

(2) Upon potentially hazardous locations, including major street intersections and park entrances: 0.4 foot-candles.

H. Installation, Anchorage and Skirting.

(1) Every mobile home shall be supported and set, and tie-downs or anchors provided, as specified in the manufacturer's instructions, or in their absence, according to the minimum requirements as established by the Iowa State Building Code.

(2) Skirting of a permanent type material and construction sufficient to provide substantial resistance to high winds shall be installed within ninety (90) days after the placement of the mobile home to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand. The skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and the appearance of the mobile home park.

I. Refuse collection stands, consisting of a holder or rack elevated at least twelve (12) inches above ground, or an impervious slab at ground level shall be provided for all solid waste receptacles.

J. Building(s) housing accessory uses food services, vending machines, drug stores, grocery stores, coin operated laundry facilities, and similar goods or services customarily incidental and subordinate to a mobile home park, and the required parking therefore, shall not exceed five percent (5%) of the gross area of the mobile home park.

K. A minimum area of five percent (5%) of the total area for the mobile home park is required for the parking and/or storage of boats and recreational vehicles. This parking facility shall be hard surfaced with concrete or asphalt with a minimum depth of six (6) inches and be strategically paced with the development to minimize public visibility. The area must be screened and landscaped.

#### **171.08 FINAL PLANS.**

1. Preliminary Plat(s) of Subdivision and Site Plan(s). Following City Council approval of an ordinance rezoning a parcel to PUD or R-4 and approving the Master Plan and Development Agreement, the applicant shall be required to submit a

Preliminary Plat in compliance with the requirements of Chapter 170 – Subdivision Regulations.

- A. Such plat shall contain all information and be processed in the manner set forth in said regulations, in addition to complying with any specific provisions of the Master Plan, and shall generally comply with the development concepts outlined in the Master Plan and Development Agreement.
  - B. The initial Preliminary Plat filed for the property shall be required to include the entire PUD or mobile home park, with lots assigned for phase 1 development and outlots assigned for approved future phases of development. Each approved phase shall demonstrate the ability to be self-sustaining in terms of access, services, utilities, open space, economic viability, and other major considerations.
  - C. The Preliminary Plat may be required to subdivide the property in outlots based on use prior to platting into lots for further development.
  - D. For all uses other than single-family detached residential lots, the Preliminary Plat shall include a Site Plan providing detailed design information including architectural elevations, building materials, sidewalks and walkways, landscaping, sidewalks and trails, monument and building signage and various site amenities, all in conformance with Chapter 157 – Site Plans. Site Plans may be required for single-family detached residential lots or for amenities such as parks serving said lots if so designated on the Master Plan or if requested by the Commission or Council.
  - E. No public notice or hearing shall be required for Preliminary Plats or Site Plans unless required by the Master Plan or Development Agreement or caused to be required by the Commission or Council as deemed appropriate. Provided, however, minor deviation from the Master Plan may be permitted as refinements to the design and planning if not defined by this chapter as a substantial modification requiring amendment to the Master Plan. Such minor deviations shall be expressly set out and shall be approved by the Planning and Zoning Commission and City Council.
2. Construction Drawings and Final Plat(s) of Subdivision. Following City Council approval of a Preliminary Plat, and Site Plan if required, the applicant shall submit a Final Plat including accompanying information in conformance with all requirements of Chapter 170 – Subdivision Regulations.
- A. Final Plat shall be in conformance with the Master Plan, Preliminary Plat and Site Plan.
  - B. If the Master Plan and/or Preliminary Plat include any public improvements, the applicant shall submit Construction Drawings for review by the City Engineer and approval by City Council as required by Chapter 170. Construction of the public improvements shall be completed and said improvements accepted by Council prior to Final Plat approval; unless this requirement is specifically waived by City Council and appropriate bond or security as recommended by the City Attorney has been provided to the City Clerk.

C. No public notice or hearing shall be required for Final Plats or Construction Drawings unless required by the Master Plan or Development Agreement or caused to be required by the Commission or Council as deemed appropriate. Provided, however, minor deviation from the Master Plan may be permitted as refinements to the design and planning if not defined by this chapter as a substantial modification requiring amendment to the Master Plan. Such minor deviations shall be expressly set out and shall be approved by the Planning and Zoning Commission and City Council.

3. Upon the approval of Preliminary Plat and Site Plan and the approval and recordation of the Final Plat, building permits shall be issued in the same manner as for building permits generally, including siting for individual mobile homes. Certificates of Occupancy shall be issued in conformance with applicable City Codes.

#### **171.09 AMENDMENTS OR MODIFICATIONS.**

1. Substantial modifications to the master plan shall be processed in the same manner as a rezoning and additionally shall comply with the provisions of this section. Notice and public hearing requirements and the effect of a denial shall be the same as for rezoning, provided that the notification area shall be those property owners proximate to the parcel covered by the amendment, as opposed to the entire PUD. Further provided that in the event a requested amendment for a portion of the entire PUD is denied, such action shall not create any limitations under rezoning procedure on the filing of an amendment to another portion of the PUD having a substantially different notification area. Any ambiguities or disputes between this chapter and procedures for rezoning shall be resolved in favor of the more restrictive requirements.

2. Substantial modifications are hereby defined to include, but are not limited to, the following: increased density; intensification of use by changing to a lower classification, with conventional single family being the highest classification and progressing to attached single family, multiple family, commercial offices, retail, warehousing, and light industry, to heavy industry; addition of uses, or elimination of conditions or restrictions on a use or uses; increased floor area ratios, or other modifications considered probable to generate increased traffic, sewage, waste consumption, or other detrimental conditions; significant modifications to peripheral buffering or screening, setbacks, height, locations of buildings, drives, or other improvements, which were intended for protection of proximate properties, provided that substitution of equivalent screening materials shall not be considered a substantial modification; modifications to the street pattern, such as that of major streets or continuations of existing streets, which will have a demonstrable impact on traffic flow such as to effectively change the functional classification of the street; modifications to access which may lead to increased congestion, or to additional commercial or industrial traffic on a local residential street; or other changes deemed substantial by the City staff.

3. Modifications to final plans shall follow the procedures of the site planning or subdivision regulations, as appropriate, except in the case of a substantial modification as defined above.

**171.10 VALIDITY.**

1. In the event the first development phase has not commenced within two years after the date of rezoning, or if subsequent phases are delayed more than two years beyond the indicated development schedule, the developer shall file appropriate information detailing the reasons for the delay with the City Administrator. The City Administrator shall review the circumstances and prepare a report recommending appropriate action to be taken concerning the PUD or mobile home park. The Planning and Zoning Commission and City Council shall review the matter, and may continue the PUD zoning with revised time limits; require that appropriate amendments be made or action taken, such amendments to comply with the procedures of this chapter if deemed substantial; continue the PUD or R-4 zoning for part of the area, with or without revised time limits, and initiate rezoning of the remainder to an appropriate district; or initiate rezoning of the entire parcel to an appropriate district, provided that the rezoning shall not be to a zone more restrictive than the applied immediately prior to the rezoning to PUD except after comprehensive planning analysis. The Commission and Council may schedule such public hearings as deemed appropriate.

2. Approval of a Site Plan or Preliminary Plat shall be deemed to commence development, provided that the permanent placement of construction materials shall have started and be proceeding without delay within two years after the date of Site Plan approval, and a Final Plat approved within one year after the date of Preliminary Plat approval in the event a Site Plan is not required. Failure to comply with this provision shall void the site plan and preliminary plat approvals, and make the PUD subject to review as provided above.

3. It shall be the responsibility of the developer to comply with all prescribed time limits without notice from the City.

**171.11 APPLICATION TO EXISTING PUD DISTRICTS.** Existing PUD districts shall comply with the requirements and provisions of this chapter, provided that no additional filings shall be required to maintain current valid status, and no currently expired approvals shall be deemed to have been reapproved by this chapter. Validity of existing PUDs shall be computed according to the time limits set forth herein.

**171.12 FEES.** Before any action shall be taken by the Commission on any petition for rezoning or on any Master Plan, the applicant or agent shall deposit with the Clerk a fee according to a schedule adopted from time to time by resolution of the City Council. The applicant shall also be responsible for any development review fees incurred by the City Engineer for review of the PUD and related documents; said fees shall be reimbursed to the City prior to any action by the Commission and paid in full prior to Council action. Site Plans and Plats of Subdivision within a PUD shall also be subject to the normal fees for such filings.

*(Ch. 171 - Ord. 2010-1600 – May 10 Supp.)*

**CODE OF ORDINANCES**  
**CITY OF POLK CITY, IOWA**

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